TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 208. 70.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,

vs.

THE CLYDE STEAMSHIP COMPANY, THE ATLANTA AND WEST POINT RAILROAD COMPANY, THE WESTERN RAILWAY OF ALABAMA, ET AL.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

FILED MAY 26, 1899.

(SEAL.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 309.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,

vs.

THE CLYDE STEAMSHIP COMPANY, THE ATLANTA AND WEST POINT RAILROAD COMPANY, THE WESTERN RAILWAY OF ALABAMA, ET AL.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

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a United States of America, fifth judicial circuit.

Pleas and proceedings had and done at a regular term of the United States circuit court of appeals for the fifth circuit, begun on the third Monday of November, 1898, and held in the court room of said court in the city of New Orleans.

Before the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, the Honorable A. P. McCormick, United States circuit judge for the fifth judicial circuit, and the Honorable Charles Parlange, United States district judge for the eastern district of Louisiana.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT, *vs.* THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY CO. et als., appellees.	No. 752.

Be it reme'bered that heretofore, to wit, on the 29th day of July, 1898, a transcript of the record of the above-styled cause from the circuit court of the United States for the northern district of Georgia was filed in the office of the clerk of said United States circuit court of appeals, in the words and figures following, to wit:

1 *Original bill of complaint.* Filed in clerk's office 27 day of May, 1893. O. C. Fuller, clerk.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *vs.* THE CLYDE STEAMSHIP COMPANY; THE SOUTH Carolina Railway Company; The Georgia Railroad and Banking Company; The Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lessees of The Georgia Railroad; The Richmond and Danville Railroad Company and the Georgia Pacific Railway Company, lessees of The Central Railroad of Georgia; The Atlanta and West Point Railroad Company, and the Western Railway Company of Alabama; D. H. Chamberlain, receiver; H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers.	In equity, No. 526.

To the circuit court of the United States, sitting in equity, within and for the northern district of Georgia:

Your petitioner, the Interstate Commerce Commission, which was created and established and now exists under and by virtue of an act of Congress of the United States entitled "An act to regulate commerce," approved February 4, 1887, as amended by an act approved March 2, 1889, and as amended by an act approved February 10, 1891, and as amended by an act approved February 11, 1893,

HUMBLY COMPLAINING,

showeth to your honors that the Clyde Steamship Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of South Carolina, having its principal office at Charles-
2 ton, in the said State of South Carolina; that the South Carolina Railway Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of South Carolina, having its principal office at Charleston, in the said State of South Carolina; and the defendant, D. H. Chamberlain, is the receiver thereof; that the Georgia Railroad and Banking Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Augusta, in the said State of Georgia; that the Louisville and Nashville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Kentucky, having its principal office at Louisville, in the said State of Kentucky; that the Central Railroad and Banking Company of Georgia is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Savannah, in the said State of Georgia; and the defendant, H. M. Comer, is the receiver thereof; that the Richmond and Danville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Virginia, having its principal office at Washington, in the District of Columbia, and the defendants, Reuben Foster and F. W. Huidekoper, are the receivers thereof; that the Georgia Pacific Railway Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, having its principal office at Birmingham, in the said State of Alabama; that the Atlanta and West Point Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Atlanta, in the said State of Georgia; that the Western Railroad Company of Alabama is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, having its principal office at Atlanta, in the State of Georgia.

That the said corporate defendants were at the time of the committing of the grievances hereinafter specially mentioned, and still are, common carriers, engaged in the transportation of persons and property partly by rail and partly by water, under a common control, management, or arrangement for continuous carriage or shipment through several of the United States, and particularly were the said defendants then engaged in the said business from the city of New York and other North Atlantic ports to Atlanta, Newnan, Grantville, Hogansville, Lagrange, and West Point, in the State of Georgia, and Opelika, in the State of Alabama, and as such common carriers were, during all the time aforesaid, and still are, subject to the provisions of the said act entitled "An act to regulate commerce," and said amendments thereto.

That the said corporate defendants were heretofore, to wit, on the 20th day of January, 1892, duly impleaded in a controversy not requiring a trial by jury, as provided for in the seventh amendment to the
3 Constitution of the United States, before the said Interstate Commerce Commission, upon the petition of L. N. Trammell, Allen

Fort, and Virgil Powers, constituting and composing the railroad commission of Georgia, duly and legally created by the laws of the State of Georgia, for an alleged violation on the part of the said defendants of the provisions of the said act entitled "An act to regulate commerce," as at large and more fully appears in and by said petition on file in the office of the said commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit A; that a copy of said petition, duly attested by the secretary of the said Interstate Commerce Commission, under the seal of the said Commission, was duly forwarded by said Interstate Commerce Commission to each of the defendants aforesaid, as required by the thirteenth section of the said act.

That thereafterwards, to wit, on the 15th day of February, 1892, the Georgia Railroad and Banking Company filed its answer to the said petition, as at large and more fully appears in and by the said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit B.

That thereafterwards, to wit, on the 15th day of February, 1892, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, as lessees of the Georgia Railroad, under the name of the Georgia Railroad Company, filed their joint answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit C.

That thereafterwards, to wit, on the 25th day of February, 1892, the Atlanta and West Point Railroad Company filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit D.

That thereafterwards, to wit, on the 25th day of February, 1892, the Western Railway of Alabama, impleaded as the Western Railway Company of Alabama, filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit E.

That thereafterwards, to wit, on the 2d day of March, 1892, the South Carolina Railway Company, by Daniel H. Chamberlain, receiver thereof, filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit F.

4 That thereafterwards, to wit, on the 25th day of March, 1892, the Central Railroad of Georgia filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit G.

That thereafterwards, the said cause, being at issue upon the pleadings aforesaid, duly came on for investigation and hearing before the said Interstate Commerce Commission, at a special session thereof, duly and legally assembled for that purpose at the city of Atlanta, in the State of Georgia, on the 24th day of March, 1892, whereof all the parties had due and

sufficient notice, when said complainants, the Georgia railroad commission, as well as the said defendants, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, the Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia, the Atlanta and West Point Railroad Company, and the Western Railway Company of Alabama, duly appeared by their respective officers and attorneys, and thereupon the said cause proceeded to hearing and determination.

That thereafterwards, to wit, on the 3d day of September, 1892, the Louisville and Nashville Railroad Company, by its attorney, Ed. Baxter, filed a petition requesting a continuance of the said cause brought by the said Georgia railroad commission, as at large and more fully appears in and by said petition on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit H.

That thereafterwards, to wit, the said Commission duly formulated an order denying the said petition of the Louisville and Nashville Railroad Company, hereinabove referred to as a part hereof, as at large and more fully appears in and by said order on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit I.

That at the said hearing it was made to appear to the satisfaction of the said Commission that the said defendants had violated the provisions of the said act, entitled "An act to regulate commerce," in certain respects as was stated in the said petition herein referred to as a part hereof, and thereupon, on the 11th day of November, 1892, the said Commission duly and legally determined the matters and things in controversy and at issue between the said parties and made a report in writing thereon, which included the findings of fact upon which the conclusions of the said Commission were based, as at large and more fully appears in and by said report of the determination of the said Commission, on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit J.

5 That thereafterwards and forthwith upon the determination of the said cause as aforesaid the said Commission duly formulated an order and notice in relation to the matters and things stated and charged in the said petition, based upon the findings and determination of the said Commission with respect thereto, agreeably to the requirements of the statute in such cases made and provided, which said order now remains in full force and effect, never having been vacated, set aside, altered, modified, or changed in any respect whatever, and is now on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit K.

That thereafterwards, to wit, on the 11th day of November, 1892, the said Commission, agreeably to the provisions of the law in that regard, duly caused a properly authenticated copy of its said report in respect to the matters at issue in said complaint as aforesaid, together with the order and notice aforesaid, to be delivered to the said defendants, and thereupon the petitioner shows that it has not been made to appear to the said Commission that, although more than twenty days have elapsed since the service of the said order upon the said defendants, that the said

defendants have ceased and desisted from the violations of law set forth in the said report and order of the said Commission, but on the contrary thereof the said defendants, unmindful of their duty and of the decision and determination of the said Commission, as stated in its report aforesaid, have, through their officers, servants, and attorneys, wholly disregarded and set at naught the authority of the said Commission in that regard, and have willfully and knowingly violated and disobeyed said order and notice as hereinbefore set forth, hitherto neglected and refused and still do neglect and refuse to comply with the same in this, that the said defendants have not since, to wit, the 1st day of March, 1893, ceased and desisted from charging or receiving any greater compensation in the aggregate for the transportation of property from New York and other north Atlantic ports for the shorter distance to Newnan, Grantville, Hogansville, Lagrange, or West Point, in the State of Georgia, than for the longer distance over the same line in the same direction to Opelika, in the State of Alabama; the said defendants not having prior to, to wit, the 1st day of March, 1893, made application to the said Commission for relief under the proviso clause of the fourth section of the act to regulate commerce.

WHEREFORE THE PETITIONER PRAYS—

1. That a subpœna or other suitable process may issue according to the course of equity, requiring the Clyde Steamship Company, the South Carolina Railway Company, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; the
6 Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; the Atlanta and West Point Railroad Company, and the Western Railway Company of Alabama, D. H. Chamberlain, of Charleston, in the State of South Carolina; H. M. Comer, of Savannah, in the State of Georgia; Reuben Foster and F. W. Huidekoper, both of Washington, in the District of Columbia, severally to appear at such time and place as this honorable court may determine, then and there each to make full, complete, and perfect answer to the matters and things hereinabove stated and charged as fully and particularly as if the said defendants were each specifically and specially interrogated in regard hereto, without verifying said answer by oath, which said verified answer is hereby specially waived.

2. That upon the filing of this petition an order may be passed by this honorable court directing the method of service of notice of the pendency of this proceeding.

3. That such order or orders may be passed pending the cause as will secure a speedy hearing and determination of the matters and things stated and charged in the foregoing petition.

4. That such order or orders may be passed pending the cause as may be necessary for the prosecution of all such inquiries as the court may think needful to enable it to form a just judgment of the matters and things stated and charged in the foregoing petition.

5. That an order may be entered pending the cause granting to the petitioner a writ of injunction or other proper process, mandatory or

otherwise, to restrain the said defendants, their officers, servants, and attorneys, from further continuing in their violations of and disobedience to the said order of the said Commission, and that upon final hearing such injunction may be made perpetual.

6. That a decree may be entered, if it shall seem meet to this honorable court, requiring the said defendants each to pay such sum of money, not exceeding the sum of $500 for every day after a day to be named in said decree that they or any of them shall fail to obey the said injunction or other proper process.

7. For such other and further relief in the premises as to the court may seem meet and the equities of the petitioner's cause may require.

THE INTERSTATE COMMERCE COMMISSION,
[L. S.] By EDW. A. MOSELEY,
The Secretary thereof, thereunto duly authorized.

7 EXHIBIT A.

8 L. N. TRAMMEL, ALLEN FORT, VIRGIL POWERS, constituting and composing the railroad commission of Georgia,

vs.

THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA Railroad Company, The Georgia Railroad and Banking Company, The Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond and Danville Railroad Company and the Georgia Pacific Railroad Company, lessees of the Central Railroad of Georgia; The Atlanta and West Point Railroad Company, and The Western Railroad Company of Alabama.

The petition of the above-named complainants respectfully shows:

First. That they compose and constitute the railroad commission of the State of Georgia; that said commission has been duly and legally created by the laws of the State of Georgia, and that its duties, under the laws of said State, are to make reasonable and just rates of freight and passenger tariffs to be observed by all railroad companies doing business in this State on the railroads thereof, and, among other matters, to investigate all through freight rates from points out of Georgia to points in Georgia, and whenever the said commission finds that the through rate charged into Georgia is excessive, unreasonable, or discriminating in its nature, they shall call the attention of the railroad officials in Georgia to the fact, and that, when such rates are not changed, it shall be the duty of the commission to present the facts to the Interstate Commerce Commission and appeal to it for relief.

This commission, therefore, having no personal or pecuniary interest in the matter herein set out except to see that the law is enforced for the benefit of society, and the discharge of the duties prescribed for them by the laws of the State of Georgia, come now, and in the public interest complain in their own name, but for the sole interest of the public, and say:

Second. That the defendants above named are common carriers, and

under a common control, management, or arrangement for continuous carriage or shipment are engaged in the transportation of passengers and property, partly by water and partly by railroad, between Eastern points, to wit, New York, Boston, Philadelphia, and points in the State of Georgia, and to the city of Opelika, in the State of Alabama, and
9 as such common carriers are subject to the act to regulate commerce. That the Atlanta and West Point Railroad and the Western Railroad of Alabama are operated as one line of road from the city of Atlanta, Ga., to the city of Montgomery, Ala., the city of Atlanta being the eastern terminus of the Atlanta and West Point Railroad, and the town of West Point being the western terminus of said road, and Opelika being a city 22 miles west of the town of West Point, on the Western Railroad of Alabama. The tracks of said two railroads join at West Point, and the same cars, engines, crew, and trains, carrying both freight and passengers for all points on the line of both roads, run through from Atlanta to Montgomery, Ala., without any change.

Third. That such (and said) common carriers, under such common control, management, or arrangement for continuous carriage, have made and fixed, and have heretofore and do now charge, collect, and receive from the people of this State, and of the city of Opelika, in the State of Alabama, the following-named rates for tariff for through freight shipped and transported by them from the city of New York, in the State of New York, to the termini of and stations on the Atlanta and West Point Railroad, in the State of Georgia, and to the city of Opelika, in the State of Alabama, so located as aforesaid, to wit:

Through rates of freight from New York, Philadelphia, etc., via Charleston, to Atlanta and West Point stations, and to Opelika, on the Western Railroad of Alabama.

	Per hundred pounds.											Per barrel.	
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	F.
Atlanta	114	98	86	73	60	49	36	48	40	39	58	68	78
Newnan	129	109	98	81	68	55	46	55	43	40	67	78	77
Grantville	147	128	114	97	80	64	51	63	49	47	78	92	96
Loganville	151	132	116	100	81	65	52	64	49	48	79	93	96
Lagrange	154	135	118	102	82	66	53	65	50	48	80	97	97
West Point	142	124	110	93	77	62	49	62	51	49	76	88	100
Opelika, Ala.	114	98	86	73	60	49	36	48	40	39	58	68	78

The figures 1, 2, 3, etc., and the letters A, B, C, etc., refer to classes of freight known as first class, second class, etc., and class A, class B, and C, and bbl. to barrels, and the figures in the lines opposite the name of the town or station mean so much in cents, as expressed by said figures, on the hundred pounds of freight of each class, and per barrel.

That the transportation of like kind of through freight is under substantially similar circumstances and conditions to such terminus and stations on said Atlanta and West Point Railroad and Western Railroad of Alabama, and that said carriers have not been authorized by your Commission to charge less for longer than shorter distances for the transportation of said through freight.

Petitioners further show that the city of Atlanta, in the State of Georgia, is the eastern terminus of said Atlanta and West Point Railroad, one of the common carriers so engaged aforesaid in the transportation of passengers and property, partly by water and partly by

railroad, under such common control, management, and arrangement for continuous carriage from the city of New York and other
10 Eastern points, and that the city of Montgomery, in the State of Alabama, is the western terminus of the Western Railroad of Alabama, also one of said carriers, and both roads being operated as one through line, and the two cities, which are the termini of said road, are located and distant from each other as follows: Montgomery, by the line of railroad, is distant from Atlanta one hundred and seventy-five miles.

And your petitioners show that, notwithstanding the town and station of West Point is 87 miles west of Atlanta and 88 miles east of Montgomery, and that Opelika is 102 miles west of Atlanta and 66 miles east of Montgomery, and that Lagrange is 71 miles west of Atlanta and 104 miles east of Montgomery, and that Hogansville is 58 miles west of Atlanta and 117 miles east of Montgomery, and that Grantville is 124 miles east of Montgomery and 51 miles west of Atlanta, and that Newnan is 39 miles west of Atlanta and 136 miles east of Montgomery, the rates of freight charged, collected, and received by the defendants for freight transportation by continuous carriage from the city of New York and other Eastern points to the towns and stations of West Point, Lagrange, Hogansville, Grantville, and Newnan are more and greater on each class than the amount charged and received for freight to the city of Opelika, which is a greater distance from the city of New York (and other Eastern points), which is the shipping point in both instances, and so the rate collected and charged for freight shipped from New York by the defendants to the towns and stations on the said railroad is greater than the rate collected and charged by them to the city of Opelika, notwithstanding the fact that the city of Opelika is at a greater distance from said shipping point, and there is no water competition.

Your petitioners say that, in their opinion, the rates of freight into the towns and stations on said railroad in the State of Georgia as aforesaid were unreasonable and discriminating in their nature, and your petitioners, as a commission, called the attention of the officials of the said Atlanta and West Point Railroad to the fact and urged upon them the propriety of changing such rate, but the said officials refused and declined to change the same, and continue and still continue to charge and collect the aforesaid rates of freight to the towns and stations as aforesaid.

Whereupon, petitioners, as the railroad commission of the State of Georgia, come and present the facts as aforesaid and appeal to the Interstate Commerce Commission for relief, and aver and charge that the aforesaid through rate of freight into the State of Georgia, and to the different towns and stations of the Atlanta and West Point Railroad and Western Railroad of Alabama, so made and charged and collected by the carriers as aforesaid is unreasonable and discriminating in its nature, and is in direct violation of section 4 of the act of Congress entitled an act to regulate commerce.

Wherefore petitioners pray that the defendants may be required to answer the charge herein, and that, after due hearing and investi-
11 gation, an order be made commanding the defendants to cease and desist from said violations of the act to regulate commerce, and

to such other and further order as the Commission may deem necessary in the premises.

Dated Atlanta, Ga., January 15, 1892.

L. N. TRAMMELL.
ALLEN FORT.
VIRGIL POWERS.

STATE OF GEORGIA, *Fulton County:*

L. N. Trammell, deing duly sworn, says that he is a member of the Georgia railroad commission, the complainants in this proceeding, and that the matters set forth in the foregoing petition are true as he verily believes.

Subscribed and sworn to before me this 15th day of January, 1892.

WM. A. WRIGHT,
Comptroller-General.

13 EXHIBIT B.

14 L. N. TRAMMEL, ALLEN FORT, VIRGIL POWERS, constituting and composing the Railroad Commission of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY ET AL.

To the Honorable The Interstate Commerce Commission:

In the answer to the complaint above stated against the defendants above named or indicated, the Georgia Railroad and Banking Company, one of the defendants, answering says:

This defendant is not engaged in the business of transporting freight by railroad or otherwise. This defendant being thereunto empowered by its charter, did, on the 7th day of May, 1881, lease all its railroads to one William M. Wadley and his assigns for the period of ninety-nine years from the 1st day of April, 1881.

Said William M. Wadley thereafter, as this defendant is informed and believes, assigned said lease to the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, and said railroad companies now operate said railroads, and have so done for ten years or more, under the name of the Georgia Railroad Company. This defendant carries on no business but that of banking, and has no concern with or duties to be performed as to the matters and things complained of in said complaint.

JOS. B. CUMMING,
Respondents' Solicitor.

STATE OF GEORGIA, *Richmond County:*

You, Charles H. Phininy, do swear that you are the president of the Georgia Railroad and Banking Company, and that the facts stated in the foregoing answer are true.

C. H. PHININY.

Sworn to and subscribed before me this 12th day of February, 1892.

[SEAL.] WM. LYON MARTIN,
Notary Public, Richmond County, Ga.

15 EXHIBIT C.

16 L. N. TRAMMEL, ALLEN FORT, VIRGIL POWERS, constituting and composing the Railroad Commission of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY ET AL.

To the Honorable The Interstate Commerce Commission:

The joint answer of the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia as lessees of The Georgia Railroad under the name of The Georgia Railroad Company.

These defendants answering, say:

I.

Said Georgia Railroad is a common carrier, but it is not under a common control or management with the other defendants, or any of them. It has an arrangement with the other defendants for continuous carriage of freight.

II.

These respondents of the Georgia Railroad Company can not alone fix the tariffs for the transportation of such through freight. It is fixed by agreement between all the carriers engaged in such continuous carriage, such agreement being reached in accordance with natural and inherent laws of trade and commerce beyond the control of these respondents, or of all or any of defendants. The proportion of the charges received by The Georgia Railroad Company for its part of the carriage is just and reasonable.

III.

The transportation of like kind of through freight, in reference to which this complaint is filed, is not under substantially similar circumstances to the terminus and stations on said Atlanta and West Point Railroad and Western Railroad of Alabama, but is affected at various points by conditions of competition by other routes of transportation, and the tariff of charges complained of is therefore not in violation of section 4 of the act of Congress to regulate freight.

And, having fully answered, these respondents beg to be hence dismissed, etc.

JOS. B. CUMMING,
Solicitor for Respondent.

17 STATE OF GEORGIA, *Richmond County:*

You, John W. Green, general manager of the Georgia Railroad, do swear that the foregoing answer is true.

JNO. W. GREEN.

Sworn to and subscribed before me this 6th day of February, 1892.

[SEAL.] WM. LYON MARTIN,
Notary Public, Richmond County, Ga.

EXHIBIT D.

Before the Interstate Commerce Commission.

L. N. TRAMMELL, ALLEN FORT, AND Virgil Powers, constituting and composing the railroad commission of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY and others.

Complaint for violation of section 4 of an act to regulate commerce, dated January 15, 1892.

The answer of the Atlanta and West Point Railroad Company to the above-styled petition, filed before the Interstate Commerce Commission by the Railroad Commission of Georgia, vs. The Clyde Steamship Company, this respondent, and others.

I.

The respondent admits that petitioners compose the railroad commission of the State of Georgia, but whether said commission has been duly or legally created by the laws of the State of Georgia, and as to what are the duties of said commission under the laws of said State, respondent prefers that the laws be allowed to speak for themselves.

This respondent is not aware what interest, pecuniary or otherwise, that the said Georgia railroad commission have in the matter set forth, but on the contrary it denies that they have any interest or lawful right to file the petition instituted by them. It further denies that the said petition is in the interest or for the benefit of society, but that on the contrary the granting of the same would be exceedingly deleterious to the State of Georgia.

It further affirms that the said railroad commission of Georgia was constituted by the general assembly of Georgia under the grant of power made to it by the constitution under article 4, section 2, paragraph 1, by which the power of the general assembly over the question of railroad freights, tariffs, and discriminations is limited to passing laws from time to time to regulate freight and passenger tariffs and prohibit unjust discriminations on the various railroads of the State of Georgia and enforcing such laws by adequate penalties, and petitioner denies that the said Georgia railroad commission have any constitutional warrant or authority for complaining in the matter of the above-stated petition before the honorable Interstate Commerce Commission, and having no authority, except such as is derived from laws passed pursuant to said constitution, as limited by the Constitution of the United States, respondent denies that said commission has any right to maintain this complaint.

II.

Respondent denies that the defendants named in said above stated complaint are common carriers under a common control, management, or arrangement for continuous carriage or shipment, or that the same are

engaged under any such common control, management, or arrangement in the transportation of passengers and property by railroad between points stated in said petition. They admit that it is true that passengers and property going from the city of Charleston and points in the State of Georgia to the city of Opelika, in the State of Alabama, pass over the line of this respondent.

Respondent admits that the Atlanta and West Point Railroad commences at the city of Atlanta and terminates at the city of West Point, Ga., and that the Western Railway of Alabama commences at the city of West Point, in the State of Georgia, but it is not true that the same terminates at Montgomery, Ala., its terminus being Selma, in said State of Alabama. But respondent says that it is wholly untrue that there is any community of interest or control over the said Atlanta and West Point Railroad and Western Railway of Alabama; that their stocks are owned by different persons; that their boards of directors are different, although some members may be common to each board; that no one stockholder, either person, or syndicate, or corporation, exercises a common control over the two roads, and that while from motives of economy trains are run over said roads without change of engines, cars, or crew, mileage, trackage, and freight balances, and all other negotiations are conducted between the two roads just as they are conducted between any other two independent lines the cars from one of which pass to the line of the other.

III.

Respondent denies that it and the other respondents, as common carriers under common control, management, or arrangement for continuous carriage, have made and fixed the rates named in paragraph 3 of said petition, for the reason that respondent denies that there is any common control, management, or arrangement between them.

Respondent admits that there does exist the tariff of freights over the lines of road from Charleston, in the State of South Carolina, to the several points, except Hogansville, named in the list set forth in said paragraph 3 of said petition, at the rates specified in said petition. But respondent absolutely denies that the transportation of like kinds of through freight is under substantially similar circumstances and conditions to such terminus and stations on said Atlanta and West Point Railroad, and respondent denies that the said charges are less for longer than shorter distances for the transportation of said through freight.

Respondent admits that the city of Atlanta is the eastern terminus of the Atlanta and West Point Railroad, but denies that said rail-
22 road is engaged in the transportation of passengers and property, partly by water and partly by rail, under common control, management, or arrangement with any other railroad, but is an independent carrier operating its own line of road under its own control. It denies that the city of Montgomery is the western terminus of the Western Railway of Alabama, and denies that the said Western Railway of Alabama is under common control with itself. It denies that the said roads are operated as one road under a common control or management. It admits that the city of Montgomery is 175 miles by rail from the city of Atlanta. It admits that the distances of the

towns of West Point, Opelika, Lagrange, Hogansville, Grantville, and Newnan from Atlanta and Montgomery, respectively, are correctly stated in said petition. It denies that the amount of rail transportation necessary to reach the city of Opelika for continuous carriage, partly by rail and partly by water, from the city of New York and other Eastern points to the city of Opelika is greater than to the towns and cities of West Point, Lagrange, Hogansville, Grantville, and Newnan, and it avers that the said railroad commission of Georgia has blindly shut its eyes to the fact that there are several routes, partly by rail and partly by water, from the city of New York and other Eastern points by which freights may pass over the lines of your respondent to points named. But your respondent further avers that the said town of Opelika is not upon the line of respondent, but upon the line of an independent carrier. Respondent further avers that the city of Savannah is a seaport lying in the State of Georgia, in direct communication with the city of New York; that the distances via Atlanta from the city of Savannah to points upon respondent's line are about the same as from the city of Charleston, in fact, if anything, a little less.

That the said railroad commission of Georgia for themselves established rates of freight from the city of Savannah to all points upon this respondent's line between Atlanta and West Point, its two termini, all of which said points are in the State of Georgia, and that the rates of freight charged for transportation from Charleston to the several points on respondent's lines are the same as those fixed by the railroad commission of Georgia as just and reasonable for the transportation of the same classes of freight from Savannah to the same points on respondent's line, and respondent submits that it doth not lie in the mouth of the railroad commission of Georgia to claim that said rates of freight to points on respondent's lines are unjust and unreasonable when they are the same as those fixed by the said railroad commission of Georgia from the city of Savannah to the same point.

Respondent further shows that even if the legislature of Georgia has the right under the constitution of said State to authorize the commission of Georgia to institute proceedings of this character, that they are simply authorized to investigate through freight rates from points out of Georgia to points in Georgia, and from points in Georgia to
23 points out of Georgia, and not from points out of Georgia to points out of Georgia; and that if the complaint of these petitioners is that the rate to the city of Opelika is too low, that the investigation of this complaint by the railroad commission of Georgia is unwarranted by the act attempting to authorize them to institute proceedings of this character before the Interstate Commerce Commission.

IV.

Respondents deny that the rates of freight into the towns and stations on said railroad in the State of Georgia are or were unreasonable or unjustly discriminating in their nature. On the contrary, respondents aver that so far as they have any control over or interest in said rates they are fair, equal, and open to all; that they do not unjustly discriminate against any person or place.

And now, having fully answered, respondents pray to be discharged and that said complaint be dismissed.

CALHOUN, KING & SPALDING,
Attorneys for Atlanta and West Point Railroad Company.

STATE OF ALABAMA, *County of Montgomery:*

Personally before the undersigned, a notary public in and for said county, came R. E. Lutz, who, being duly sworn, on oath says that he is the traffic manager of the Atlanta and West Point Railroad Company, and that he has carefully read the foregoing answer of the Atlanta and West Point Railroad Company, and that the facts therein stated are true, as he verily believes.

R. E. LUTZ,
Traffic Manager.

Sworn and subscribed before me this 22d day of February, A. D. 1892.

[SEAL.] H. C. DAVIDSON,
Notary Public.

25 EXHIBIT E.

26 *Before the Interstate Commerce Commission at Washington, D. C.*

L. N. TRAMMEL, ALLEN FORT, AND VIRGIL POWERS, constituting and composing the Railroad Commission of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY AND OTHERS.

Comes the Western Railway of Alabama, impleaded in this case as the Western Railroad Company of Alabama, and waiving this irregularity, but asking merit for same, for answer to the complaint says:

I.

It admits that petitioners compose and constitute what is known as the railroad commission of the State of Georgia, but that said commission has been duly and legally created by the laws of the State of Georgia; that they possess the powers and privileges claimed by them in their complaint, or that they have no personal or pecuniary interest in the matter therein set out, this defendant does not know, does not admit, and demands that the same be proven; and this defendant most emphatically denies that said Georgia railroad commission has any right or authority for complaining in the matter of said petition before the honorable Interstate Commerce Commission or of making this defendant a party to said proceeding; and it further denies that said complaint is made for the sole interest of the public.

On the contrary, this respondent avers that the granting of petitioner's request would be detrimental to the public interest; and to entertain their complaint, as against this defendant, would be contrary to public policy in allowing an artificial person, created by the Georgia legislature, to interfere with the business of an Alabama corporation carried on in the State of Alabama, and in nowise affecting the State of Georgia or her citizens.

II.

This respondent denies each and every averment contained in the second paragraph of said complaint, except that it is subject to the act to regulate commerce; that Atlanta and West Point are the termini of the Atlanta and West Point Railroad; that Opelika is a city 22 miles west of West Point, and that the tracks of said two railroads join at West Point. These it admits.

27

III.

For answer to the third paragraph of the complaint, this respondent avers that it is an Alabama corporation, owning and operating a line of railway extending from Selma, Ala., to West Point, Ga., and none other; that by no common control, management, or arra'gement, for continuous carriage or otherwise, has it ever made, fixed, charged, collected, or received from the people of Georgia, or any other people, any rates for a tariff for through freight shipped and transported from New York, Philadelphia, etc., via Charleston and Atlanta, to Atlanta and West Point stations. It admits that the tariff of rate to Opelika is correctly quoted in said complaint, but denies that the transportation of like kind of freight is under substantially similar circumstances and conditions to Opelika, Ala., and the stations on the Atlanta and West Point Railroad; and denies that said charges are less for longer than shorter distances for the transportation of said through freight.

And this respondent says that the petitioners, the Georgia railroad commission, are mistaken "in their opinion" that the rates of freight into the said Georgia towns and stations are unreasonable and discriminating in their nature. Wherefore the respondent prays that said complaint be dismissed.

Respectfully submitted.

THE WESTERN RAILWAY OF ALABAMA,
By R. E. LUTZ,
Traffic Manager.

STATE OF ALABAMA, *Montgomery County, ss:*

R. E. Lutz, being duly sworn, says that he is the traffic manager of the Western Railway of Alabama, one of the defendants in this proceeding, and that the foregoing answer is true as he verily believes.

R. E. LUTZ,
Traffic Manager.

Sworn and subscribed to before me this 22d day of February, 1892.

[SEAL.] H. C. DAVIDSON,
Notary Public.

29 EXHIBIT F.

30 *The United States of America, Interstate Commerce Commission.*

L. N. TRAMMELL, ALLEN FORT, VIRGIL POWERS, constituting and composing the railroad commission of Georgia,

vs.

THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA Railroad Company, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, the Central Railroad and Banking Company, and others.

The answer of the South Carolina Railway Company, by Daniel H. Chamberlain, receiver of said company, to the petition filed before the Interstate Commerce Commission, by L. W. Trammell, Allen Fort, and Virgil Powers, composing the railroad commission of Georgia, against the Clyde Steamship Company, the South Carolina Railroad Company, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, the Central Railroad and Banking Company of Georgia, and others.

I.

This respondent says that the South Carolina Railway Company, which is an entirely distinct corporation from South Carolina Railroad Company, referred to in the petition, is a corporation under the laws of the State of South Carolina, being the purchaser of the property and franchises of said South Carolina Railroad Company, and under the order of the circuit court of the United States for the district of South Carolina, sitting in equity in the case of F. W. Bound vs. The South Carolina Railway Company and others, bearing date the 7th of October, 1889, this respondent was appointed receiver of the said railway company and is now operating the same under the order of said court.

II.

This respondent admits that petitioners compose the railroad commission of the State of Georgia, but as to whether said commission has been duly or legally created by the laws of the State of Georgia, and as to what are the duties of said commission under the laws of said State, this respondent prefers that said laws should speak for themselves.

31 III.

This respondent admits that he operates the said South Carolina Railway Company as a common carrier, but says that it is not under a common control or management with the other defendants, or any of them, but it has an arrangement for continuous carriage of freight.

IV.

Respondent denies that the rates of freight for its proportion of the carriage of goods are unreasonable and discriminating in their nature;

on the contrary, respondent avers that all of said rates are fair, equal, and open to all, the same being fixed and arrived at in accordance with the laws of trade and commerce necessary for the proper conduct of this respondent's road, and beyond the control of this respondent, or any of defendants.

V.

That the transportation of like kind of freight in reference to which the complaint is filed is not under substantially similar circumstances to the terminus and stations on said Atlanta and West Point Railroad and Western Railroad of Alabama, but is affected at various points by conditions of competition by other routes of transportation, and the tariff of charges complained of is not, therefore, in violation of section 4 of the act of Congress to regulate freight.

BRAWLEY & BARNWELL,
Respondent's Attorneys.

STATE OF NEW YORK, *County of New York, ss:*

Daniel H. Chamberlain, being duly sworn, says that he is receiver of the South Carolina Railway Company; that he is in charge of the operations of the said South Carolina Railway Company, and that the matters set forth in the foregoing answer are true as he verily believes.

DANIEL H. CHAMBERLAIN.

Subscribed and sworn to before me this 1st day of March, 1892.

[SEAL.] C. H. PAYNE,
Notary Public, Kings County.

Certificate filed in New York County.

33 EXHIBIT G.

34 *Interstate Commerce Commission.*

BY THE GEORGIA RAILROAD COMMISSION *against* THE CLYDE STEAMSHIP COMPANY, THE South Carolina Railroad Company, The Georgia Railroad and Banking Company, et al. — Complaint for violation of section 4 of an act to regulate commerce.

Answer of the Central Railroad of Georgia.

The Central Railroad of Georgia, one of the above-named respondents, for its separate answer to the complaint herein (without waiving and specially reserving all rights of exception and objection thereto), respectfully says:

First. The respondent admits that petitioners compose and constitute what is known as the railroad commission of the State of Georgia, but whether said commission has been duly and legally created by the laws of the State of Georgia, that they possess the powers and privileges claimed for them in their complaint, or that they have any personal or pecuniary interest in the matter therein stated, this respondent does not know, does not admit, and demands that the same be proved.

This respondent most emphatically denies that said Georgia railroad commission has any right or authority for complaining in the matter of the said company before the honorable Interstate Commerce Commission, or of making this respondent a party to said proceeding. It further denies that said complaint is made for the sole interest of the public. On the contrary, this respondent affirms that the granting of the various requests would be detrimental to the public interest.

Second. That it denies each, every, and any allegation in said complaint charging it with any act or acts in violation of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, and amended March 2, 1889.

Third. That it denies each, every, and any other charge or allegation against it made or contained in said complaint.

Wherefore this respondent respectfully prays that the said complaint may be dismissed as to it.

THE CENTRAL RAILROAD OF GEORGIA,
By THOS. COBB JACKSON, *Counsel.*

35 STATE OF GEORGIA,
City of Atlanta, ss:

Sol Haas, being first duly sworn, says that he is the traffic manager of the Central Railroad of Georgia, the respondent making the foregoing answer, and that the same is true as he is informed and believes.

SOL HAAS,
Traffic Manager.

Subscribed and sworn to before me this 23d day of March, 1892.

[SEAL.] A. A. MEYER,
Notary Public in and for the County of Fulton, Ga.

37 EXHIBIT H.

38 [Louisville and Nashville R. R. Company.]

OFFICE OF DISTRICT ATTORNEY,
Nashville, Tenn., Sept. 3, 1892.

Ga. R. R. Commission *vs.* W. & A. and L. & N. R. R. Cos. et al., 7897.
Ga. R. R. Commission *vs.* Clyde S. S. Co., L. & N. R. R., et al., 7894.
Ga. R. R. Commission *vs.* Clyde S. S. Co., So. Car. Rd. et al., 7979.
Ga. R. R. Commission *vs.* L. & N. and N. C. & St. L. Ry. et al., 7980.
Ga. R. R. Commission *vs.* So. Car. R. R. and L. & N. R. R. et al., 7981.

EDW. A. MOSELEY, Esq.,
Secty. I. C. C.,
Washington, D. C.

DEAR SIR: In reply to your telegram of 24th ult.:

These cases involve the same question as the Social Circle case, which has been prepared for trial with the hope that it can be heard at the approaching term of the U. S. Supreme Court. Mr. Safford writes me that his health is such that he can not argue the Social Circle case for several weeks, but I am in hopes that he will recover in time to argue that case so as to get it heard at the approaching term of the U. S. Supreme Court. The decision of that case by the Supreme Court will

virtually settle all of these cases, and I respectfully request that the Commission continue these cases, say for 90 days, or until we can see if the Social Circle case can be heard by the Supreme Court at the approaching term. Will you kindly present this application for me.

Yours, truly,

ED. BAXTER.
S.
District Attorney.

39 EXHIBIT I.

40 At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of October, A. D. 1892.

Present: Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, Hon. James W. McDill, Commissioners.

THE GEORGIA RAILROAD COMMISSION
vs.
THE LOUISVILLE AND NASHVILLE RAILROAD COMPANY et al., and six other cases.

On reading the application of Edward Baxter, esq., counsel for the above-named defendant, for postponement of the decision of these cases for ninety days, or until after the determination of the so-called Social Circle case, entitled upon the record "Interstate Commerce Commission against The Cincinnati, New Orleans and Texas Pacific Railway Company et al.," and now pending in the United States circuit court for the northern district of Georgia,

It is ordered that said application be, and is hereby, denied.

81 EXHIBIT K.

82 At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of November, A. D. 1892.

Present: Hon. William R. Morrison, chairman; Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, Hon. James W. McDill, Hon. Judson C. Clements, Commissioners.

L. N. TRAMMELL, ALLEN FORT, AND VIRGIL POWERS, constituting and composing the Railroad Commission of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA Railway Company, The Georgia Railroad and Banking Company, The Louisville and Nashville Railroad Company, and The Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond and Danville Railroad Company, and The Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; The Atlanta and West Point Railroad Company, and The Western Railway Company of Alabama. } No. 326.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of

the matters and things involved in this proceeding having been had, and the Commission having on the date hereof made and filed a report and opinion containing its findings of fact and conclusions thereon, said report and opinion is hereby referred to and made a part of this order; and the Commisssion having, as appears by said report and opinion, found and decided, among other things, that the common carriers operating the Clyde Steamship line, the South Carolina Railway, the Georgia Railroad, and the Atlanta and West Point Railroad are not justified under the fourth section of the act to regulate commerce in charging or receiving more in the aggregate for the transportation of property from New York and other North Atlantic ports for the shorter distance to Newnan, Grantville, Hogansville, Lagrange, or West Point, in the State of Georgia, than they, together with the Western Railway Company of Alabama, charge or receive for the transportation of a like kind of property for the longer distance from New York and other North Atlantic ports to Opelika, in the State of Alabama,

83 It is ordered and adjudged that the Clyde Steamship Company, the South Carolina Railway Company, and D. H. Chamberlain, the receiver thereof; the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, as lessees of the Georgia Railroad; H. M. Comer, receiver of the Central Railroad and Banking Company of Georgia; the Richmond and Danville Railroad Company and the Georgia Pacific Railway Company, as lessees of the Central Railroad of Georgia; F. W. Huidekoper and Reuben Foster, receivers of said Richmond and Danville Railroad Company, and the Atlanta and West Point Railroad Company, that is to say, such of them as are operating as common carriers the Clyde Steamship line, the South Carolina Railway, the Georgia Railroad, and the Atlanta and West Point Railroad, respectively, do wholly cease and desist, within twenty days after service of a copy of this order, from charging or receiving any greater compensation in the aggregate for the transportation of property from New York and other North Atlantic ports for the shorter distance to Newnan, Grantville, Hogansville, Lagrange, or West Point, in the State of Georgia, than they, together with the Western Railway Company of Alabama, charge or receive for the transportation of like kind of property from New York and other North Atlantic ports for the longer distance over the same line in the same direction to Opelika, in the State of Alabama, the shorter being included within the longer distance; or that said common carriers, including said Western Railway Company of Alabama, do, within the time above specified, make and file with this Commission an application or applications, as may be required, and as provided in the proviso clause of the fourth section of the act to regulate commerce, for relief from the operation of that section in respect to the prohibition therein contained against charging or receiving any greater compensation in the aggregate for the transportation of like kind of property from New York and other North Atlantic ports to the shorter distance points aforesaid than for such transportation over the same line in the same direction for the longer distance to Opelika, aforesaid, and show cause within sixty days after service of a copy of this order why such application, or applications, for relief should be granted; and upon such application, or applications, the

evidence already taken herein may be used. In case said common carriers elect to apply for relief as hereby provided, and such application for relief, after investigation by the Commission, be denied, then the order to cease and desist as hereinabove set forth shall stand, and compliance therewith will be required within twenty days after service of the order denying said application.

It is further ordered that a notice embodying this order be forthwith sent to each of said common carriers, together with a copy of the report and opinion of the Commission herein, in conformity with the provisions of the fifteenth section of the act to regulate commerce.

84 OFFICE OF THE INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, hereby certify that the foregoing exhibits, twelve in number, and marked A to K, both inclusive, are correct copies of the originals thereof on file among the records of the Interstate Commerce Commission.

In testimony whereof I hereunto set my hand and affix the seal of the said Interstate Commerce Commission, at the city of Washington, in the District of Columbia, this 16th day of May, 1893.

[L. S.] EDW. A. MOSELEY,
Secretary of the Interstate Commerce Commission.

A true copy of the petition and exhibits.

[L. S.] (Signed) EDW. A. MOSELEY,
Secretary of the Interstate Commerce Commission.

85 *Order for defendants to show cause and notice.*

In the circuit court of the United States for the northern district of Georgia, March term, 1893.

INTERSTATE COMMERCE COMMISSION
versus
THE CLYDE STEAMSHIP COMPANY; THE SOUTH CAROLINA RAILWAY COMPANY; The Georgia Railroad & Banking Company; The Louisville & Nashville Railroad Company and The Central Railroad and Banking Company of Georgia, lessees of The Georgia Railroad; The Richmond & Danville Railroad Company and The Georgia Pacific Railway Company, lessees of The Central Railroad of Georgia; Atlanta and West Point Railroad Company, and The Western Railway Company of Alabama; D. H. Chamberlain, receiver, H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers. } No. 526.

Petition under interstate-commerce act—Notice to defendants—In equity.

These proceedings having been filed under the act to regulate commerce, approved February 4, 1887, as amended March 2, 1889, February 10, 1891, and February 11, 1893—

It is ordered and directed by the court that the defendant corporations

appear before the United States circuit court for the northern district of Georgia, at the court room in Atlanta, Georgia, on the 10th day of July, 1893, at 10 o'clock a. m., to answer such proceedings and to show cause why the prayer of petition should not be granted; and it is further ordered that a copy of this order be served on each of the corporations of this State by serving the principal officer of the same, and that the non-
resident defendant corporations be served by the clerk of this court
86 mailing copy of this order in a registered letter, addressed to the president or chief officer at the principal office of such corporation set out in said petition and such corporations as are in the hands of a receiver, in the same manner, or service may be acknowledged by counsel representing such defendants; and it being represented to the court that copies of the petition or bill are printed and convenient (without holding the same to be necessary and proper notice under act above referred to), the clerk is directed to attach a copy of said petition or bill to each of said orders or notices and let them be served therewith.

In open court this 19 day of June, 1893.

WM. T. NEWMAN,
U. S. Judge.

Service.

I hereby certify that I have this 20 day of June, 1893, mailed a certified copy of the within order and a copy of the petition in this case in registered letters as follows:

To the president or chief officer of Clyde Steamship Co., Charleston, S. C.

To the president or chief officer of South Carolina Railway Company, Charleston, S. C.

To the president or chief officer of Louisville & Nashville R. R. Co., Louisville, Ky.

To the president or chief officer of Richmond & Danville R. R. Co., Washington, D. C.

To the president or chief officer of Georgia Pacific Ry. Co., Birmingham, Ala.

D. H. Chamberlain, receiver South Carolina Railway Co., Charleston, S. C.

Reuben Foster & F. W. Huidekoper, receivers Richd. & Danv. R. R. Co., Washington, D. C.

O. C. FULLER, *Clerk.*

Service upon H. M. Comer, president.

I certify that on the 22nd day of June, 1893, at Savannah, in my district, I personally served a copy of the within petition and order on H. M. Comer, president of the C. R. R. and Banking Co. of Ga., and on H. M. Comer, and at the same time exhibiting this the original. Return of

FRANK LEVERETT, *U. S. Marshal.*
By J. C. HEYWARD, *Deputy.*

Dated Savannah, Ga., June 22nd, 1893.

Filing: Returned and filed in office, June 23, 1893. O. C. Fuller, clerk.

87 *Order allowing defendants thirty days to answer, etc.*

In the circuit court of the United States for the northern district of Georgia.

INTERSTATE COMMERCE COMMISSION
vs.
CLYDE STEAMSHIP COMPANY AND GEORGIA RAILROAD & Banking Co., et al. } No. 526.

By consent of parties it is ordered, in the above-stated case, that the defendants, and each of them therein named, be, and they are hereby, allowed thirty days from this date to answer all proceedings in the above-stated case, with all of the rights of pleading to said petitions now enjoyed by said defendants.

It is further ordered that the judge of this court may during vacation by order direct the method in which testimony may be taken therein, and appoint an examiner or other officer to take such testimony.

In open court this 10th day of July, 1893.

WM. T. NEWMAN,
U. S. Judge.

Filing: Filed in clerk's office 10 day of July, 1893. O. C. Fuller, clerk, by Geo. S. Barnard, deputy clerk.

Answer of the Richmond & Danville Railroad et al.

In the circuit court of the United States for the northern district of Georgia.

INTERSTATE COMMERCE COMMISSION
vs.
CLYDE STEAMSHIP COMPANY, AND OTHERS. } In equity, No. 526.

Joint answer of The Richmond & Danville Railroad Company, The Georgia Pacific Railway Company, and F. W. Huidekoper and Reuben Foster, receivers of The Richmond & Danville Railroad Company.

88 *To the honorable the judges of the circuit court of the United States for the northern district of Georgia:*

These respondents, answering, say:

I. These respondents admit the filing of the petition before the Interstate Commerce Commission by the railroad commission of Georgia, as alleged in the petition herein, and that Exhibit A, annexed to said petition, is a true copy thereof. These respondents also admit that on said 20th day of January, 1892, the lines of the said Central Railroad and Banking Company of Georgia were leased to the respondent, The Georgia Pacific Railway Company, and were operated by the respondent, The Richmond & Danville Railroad Company; and further admit that said Interstate Commerce Commission did hear the matter, as alleged in the petition herein, and did make a report in writing thereon, of which Exhibit J, annexed to said petition, is a true copy, and did thereafterwards issue and duly serve on each of these respondents the order of which Exhibit K, annexed to said petition, is a true copy.

These respondents, however, aver that before the hearing of said matter before the Interstate Commerce Commission, to wit, on the 4th day of March, 1892, the said lines of the Central Railroad and Banking Company of Georgia were, by order of the circuit court of the United States for the southern district of Georgia, placed in the hands of a receiver of said court, and thereupon the said lease of said lines to the respondent, The Georgia Pacific Railway Company, was surrendered and annulled, and said respondent ceased to have any possession or control of said lines, and the said Richmond & Danville Railroad Company ceased to hold and operate the same, all of which facts were well known to said Interstate Commerce Commission at the time of making their said report.

II. Respectfully answering, these respondents say that the said Richmond and Danville Railroad Company and the Georgia Pacific Railway Company were parties to the said proceedings before the Interstate Commerce Commission only in the character and relation of lessee of the Central Railroad and Banking Company of Georgia, which character and relation to the matters of said proceedings had ceased as aforesaid before the hearing by the Interstate Commerce Commission and the making of its report and order thereon.

That the said report finds no facts relative to the conduct of either of the respondents, The Richmond & Danville Railroad Company or the Georgia Pacific Railway Company, in the transportation as a common carrier of freight or passengers on the lines of railroad operated by
89 either of said respondents at the date of the hearing on which said report is made. That in none of the routes described and mentioned in said report does any railroad then or now operated by either of said respondents form a part.

These respondents respectfully call the attention of the court to the following language on page 4 of said report:

"As to the second of the minor questions whether certain of the defendants, to wit, the Georgia Railroad & Banking Company, the Central Railroad and Banking Company, the Georgia Pacific Railway Company, and the Richmond & Danville Railroad Company are common carriers controlling rates and operating roads, parts of through lines between points of shipment and destination, it seems sufficient to hold generally that only those who are in any degree responsible for transportation charges over the respective roads will be expected to comply with any order for the readjustment of those charges which may hereafter be issued in these proceedings."

These respondents aver that it is not true, as alleged in the petition herein, that these respondents, "unmindful of their duty and the decision and determination of the said Commission as stated in its report aforesaid, have, through their officers, servants, and attorneys, wholly disregarded and set at naught the authority of the said Commission in that regard, and have willfully and knowingly violated and disobeyed said order and notice as hereinbefore set forth, hitherto neglected and refused, and still do neglect and refuse, to comply with the same," because the said report under the facts found and by its express terms had no application to any line operated either by the Richmond & Danville Railroad Company or the Georgia Pacific Railway Company, and the said order of the Commission, based on said report, does not apply to either of said respondents.

III. Further answering, these respondents say that said order of the Commission, to enforce which the present proceeding is instituted, is not a legal order to which obedience is due under the act to regulate commerce and the amendments thereof, for the reason, among others, that said order is based upon erroneous findings of fact and law stated in the said report of the Commission.

These respondents specify the following errors:

1. The Commission erred in finding that the shipment to the shorter-distance points mentioned in the report were made under an arrangement for continuous carriage or shipment within the provisions of the said act to regulate commerce.

2. The Commission erred in finding that the shipments made to
90 the shorter-distance points mentioned in the report were made over the same line as the shipments made to the longer-distance points mentioned therein.

3. The Commission erred in finding that competition between carriers does not constitute a circumstance or condition within the meaning of the fourth section of the act to regulate commerce.

4. The Commission erred in finding that the competition between markets does not constitute a circumstance or condition to be considered under the provisions of the fourth section of said act.

Wherefore these respondents, having fully answered, pray that the petition herein be dismissed as to them, and that they be hence dismissed with their costs in this behalf wrongfully incurred.

HUGH L. BOND, Jr.,
HENRY JACKSON,
Solicitors for Respondents.

DISTRICT OF COLUMBIA, *City of Washington:*

Reuben Foster, being duly sworn, deposes and says that he is one of the receivers of the Richmond and Danville Railroad Company, named in the foregoing answer, and that the matters and facts therein stated are true, as he verily believes.

REUBEN FOSTER, *Receiver.*

Sworn to and subscribed to before me this 5th day of August, 1893.

[SEAL OF N. P.] CHAS. P. LEE,
Notary Public.

Filing: Filed in clerk's office 7th day of Aug., 1893. O. C. Fuller, clerk.

Plea of Western Railway of Alabama.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY ET AL. } No. 526.

91 Comes the Western Railway of Alabama, by George P. Harrison, its attorney, and prays judgment of the said petition, because it says that it is an Alabama corporation, owning and operating a

line of railway from Selma, Alabama, to West Point, Georgia, and none other; that it has no interest and never has had any in the line referred to in said petition from New York or other North Atlantic ports to Newnan, Grantville, Hogansville, Lagrange, or West Point, in the State of Georgia; that it does not and never has managed, operated, or controlled said line or any part thereof; that it has never at any time charged or received any compensation whatever for the transportation of any property over said line, and this the said defendant is ready to verify.

Wherefore, inasmuch as said defendant is made a party defendant with other defendants with whom it has no connection in the management, operation, or control of the said line of railway, or other ways, from New York or other North Atlantic ports to Newnan, Grantville, Hogansville, La Grange, or West Point, in the State of Georgia, the said defendant prays judgment of the said petition, and that the same may be quashed; and if not quashed, then said defendant prays judgment if said petition ought to be answered.

GEORGE P. HARRISON,
Attorney for the Western Railway of Alabama.

STATE OF GEORGIA, *County of Fulton, ss:*

Edmond L. Tyler, being duly sworn, says that he is the general manager of the Western Railway of Alabama, one of the defendants in this proceeding, and that the facts set forth in the foregoing plea are true as therein stated, and that the same is not interposed for delay.

EDMD. L. TYLER,
Genl. Mangr.

Sworn to and subscribed before me this the 9th day of August, 1893.

[SEAL OF N. P.].

WM. W. GRANT,
Notary Public, Fulton Co., Ga.

I, George P. Harrison, counsel for the Western Railway of Alabama, do certify that in my opinion the foregoing plea is well founded in point of law.

This August 9th, 1893.

GEORGE P. HARRISON,
Attorney for Western Railway of Alabama.

Filing: Filed in clerk's office 9 day of Aug., 1893. O. C. Fuller, clerk.

92 *Answer of Atlanta & West Point Railroad Company.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY ET AL. } In equity, No. 526.

The Atlanta & West Point Railroad Company, one of the defendants in the above-stated case, reserving all rights to demurrer or objections to the foregoing petition, answering the same, saith:

That it is a corporation created, chartered, and having its principal office in the State of Georgia, as alleged in said petition.

As to the residence or method of incorporation of any of the other defendants it calls for strict proof thereof.

That it is untrue that the defendants were at the time of the acts specially mentioned, or are now, common carriers, under a common control, management, or arrangement, for the continuous carriage or shipment of persons or property through several of the United States, as specified in said petition.

This respondent saith that the proceedings set forth in said petition, consisting of the petition and answers Exhibits "A" to "G," inclusive, were had before the honorable the Interstate Commerce Commission as set forth; but this respondent denies that this defendant was thereby duly impleaded in a controversy not requiring trial by jury as provided in the seventh amendment to the Constitution of the United States.

This respondent saith that it is true that the request made in Exhibit "H" was made as stated in said petition, and that the same was denied, as stated in Exhibit "I" to said petition.

This respondent denies that at said hearing it was made to appear that the said defendants had violated the provisions of the act entitled "An act to regulate commerce" in any respect, but saith that on the trial it was made to clearly appear that the said defendants had not violated the provisions of said act.

This respondent denies that the said Commission duly and legally determined the matters and things in controversy and at issue between the said parties, but on the contrary saith that the said Commission erroneously determined the matters and things in controversy and at issue between the said parties.

This respondent denies that the findings of fact made by the said Commission are correct, but says that the said findings of fact made by
93 the said Commission in the report alluded to are incorrect and unwarranted by the evidence produced before said Commission and by the facts of said case.

This respondent, further replying, saith: That the order Exhibit "K," made by the said Commission, is not based upon the evidence in said case and the law applicable to said evidence, but that the same is contrary both to the law and to the evidence, and should never have been made by said Commission.

This respondent denies that it has violated any provision of the interstate-commerce law, as stated in said report and order of the said Commission, but saith that it has strictly observed all of the provisions of the interstate-commerce law.

This respondent denies that the rates charged by it, as specified in said Exhibit "A" to said petition, are unreasonable or discriminative in their nature, but say that the same are reasonable and do not discriminate, and are not in violation, directly or indirectly, of section 4 of the act of Congress entitled an act to regulate commerce.

This respondent denies that the transportation of property from New York and other North Atlantic ports to Newnan, Grantville, Hogansville, La Grange, or West Point, in the State of Georgia, is made under similar circumstances and conditions with the transportation of like property to Opelika, in the State of Alabama, and calls for strict proof thereof, and is ready to prove to the contrary.

This respondent denies that in any of the matters set forth or complained of in the said petition of the said Interstate Commerce Commission, or the exhibits thereto, that it has charged or received any greater compensation in the aggregate for the transportation of like kind of property and under substantially similar circumstances or conditions for a shorter than a longer distance over the same line in the same direction, the shorter being included within the longer distance, as charged in said petition, and demands that strict proof be required of this charge, and is ready to prove to the contrary.

And now, having fully answered, respondent asks to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

R. E. LUTZ.

STATE OF ALABAMA, *Montgomery County:*

R. E. Lutz, being duly sworn, says that he is the traffic manager of the Atlanta & West Point Railroad Company, one of the defendants in this proceeding, and that the foregoing answer is true as he thoroughly believes.

94 Sworn to and subscribed before me this the 8th day of July, 1893.

[SEAL OF N. P.] H. C. DAVIDSON,
Notary Public, Montgomery County, Ala.

Filing: Filed in clerk's office 9 day of Aug., 1893. O. C. Fuller, clerk.

Answer of Georgia Railroad & Banking Company et al.

The joint and several answers of the Georgia Railroad & Banking Company; the Louisville & Nashville Railroad Company, and the Central Railroad & Banking Company of Georgia, the last two companies being assignees of the lessee of the Georgia Railroad, to the petition filed by the Interstate Commerce Commission against the Clyde Steamship Company; the South Carolina Railway Company; the Georgia Railroad and Banking Company; the Louisville & Nashville Railroad Company, the Central Railroad & Banking Company of Georgia, lessees of the Georgia Railroad; the Richmond & Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; the Atlanta & West Point Railroad Company, and the Western Railway Company of Alabama; D. H. Chamberlain, receiver; H. M. Comer, receiver; and Reuben Foster and F. W. Huidekoper, receivers; in the circuit court of the United States for the northern district of Georgia, in equity, No. 526 on the rule docket of said court.

Respondents, saving and reserving, &c., for answer unto said petition, state as follows:

I.

They suppose it to be true that the Clyde Steamship Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of South Carolina, having its principal office at Charleston, in said State of South Carolina; that the South Carolina Railway Company is a corporation created, chartered, and existing under and by virtue

of the laws of the State of South Carolina, having its principal office at Charleston, in said State of South Carolina; and that defendant, D. H. Chamberlain, is the receiver thereof; that the Richmond & Danville Railroad Company is a corporation created, chartered, and existing
95 under and by virtue of the laws of the State of Virginia, having its principal office in Washington, in the District of Columbia; and that defendants, Rueben Foster and F. W. Huidekoper, are the receivers thereof; that the Georgia Pacific Railway Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, having its principal office at Birmingham, in said State of Alabama; that the Atlanta and West Point Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Atlanta, in said State of Georgia; that the Western Railway Company of Alabama is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, having its principal office at Atlanta, in the State of Georgia.

Respondents admit that the Georgia Railroad & Banking Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Augusta, in said State of Georgia; that the Louisville & Nashville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Kentucky, having its principal office at Louisville, in said State of Kentucky; that the Central Railroad & Banking Company of Georgia is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Savannah, in said State of Georgia; and that defendant, H. M. Comer, is the receiver thereof.

II.

Respondents admit that on July 15, 1892, said corporate defendants, with the exception of the Georgia Railroad & Banking Company, were and still are common carriers, engaged, respectively, in the transportation of persons and property; that some of said corporate defendants were and are so engaged wholly by rail; that some of said corporate defendants were and are so engaged wholly by water; and that some of said corporate defendants were and are so engaged partly by rail and partly by water.

Said Louisville & Nashville Railroad Company and said Central Railroad & Banking Company of Georgia are the assignees of the lessee of the Georgia Railroad, which is the property of the Georgia Railroad & Banking Company. The Georgia Railroad & Banking Company and the Central Railroad & Banking Company of Georgia together own a majority of the capital stock of the Western Railway Company of Alabama; the Richmond & Danville Railroad Company and the Georgia Pacific Rail-
96 way Company were lessees of the Central Railroad of Georgia; but with these exceptions respondents have no knowledge, information, or belief that any of said corporate defendants were under any common control or management for continuous carriage or shipment.

Respondents have no knowledge, information, or belief that any of the corporate defendants are under any common arrangement for continuous carriage or shipment other than that by agreement between them or some of them certain through routes have been formed, over which certain through rates are charged and over which carriage or shipment is continuous under bills of lading issued by the receiving carriers. Several of such through routes have been formed by some of said corporate defendants from the city of New York and other North Atlantic ports to Atlanta, Newnan, Grantville, Hogansville, Lagrange, and West Point, in the State of Georgia, and Opelika, in the State of Alabama; and such of said corporate defendants as agreed to form said through routes are engaged as common carriers over said routes.

III.

Respondents deny that said corporate defendants were on or about January 20, 1892, duly impleaded in any kind of a controversy before said Interstate Commerce Commission, but respondent' admit that on or about January 20, 1892, L. N. Trammell, Allen Fort, and Virgil Powers, constituting and composing the railroad commission of Georgia, which claims to have been duly and legally created by the laws of the State of Georgia, filed a petition in the office of said Interstate Commerce Commission; that Exhibit A to the petition filed in this case is a true copy of said petition.

Respondents admit that a copy of said petition, duly attested by the secretary of said Interstate Commerce Commission, under the seal of said Commission, was duly forwarded by said Commission to each of respondents, and they suppose that a copy of said petition was duly forwarded to each of their codefendants.

IV.

Respondents admit that on or about February 15, 1892, the Georgia Railroad & Banking Company filed its answer to said petition before said Interstate Commerce Commission, and that Exhibit B to the petition filed in this case is a true copy of said answer.

V.

Respondents admit that on or about February 15, 1892, the Louisville & Nashville Railroad Company and the Central Railroad & Banking Company of Georgia, as lessees of the Georgia Railroad under the
97 name of the Georgia Railroad Company, filed their joint answer to said petition before said Commission, and that Exhibit C to the petition filed in this case is a true copy of said answer.

VI.

Respondents admit that on or about February 25, 1892, the Atlanta & West Point Railroad Company filed its answer to said petition before said Commission, and that Exhibit D to the petition filed in this case is a true copy of said answer.

VII.

Respondents admit that on about Feby. 25, 1892, the Western Railway Company of Alabama filed its answer to said petition before said Commission, and Exhibit E to the petition filed in this case is a true copy of said answer.

VIII.

Respondents admit that on or about March 2, 1892, the South Carolina Railway Company, by Daniel H. Chamberlain, receiver of said company, filed its answer to said petition before said Commission, and that Exhibit F to the petition filed in this case is a true copy of said answer.

IX.

Respondents admit that on about the 25th day of March, 1892, the Central Railroad of Georgia filed its answer to said petition before said Commission, and that Exhibit G to the petition filed in this case is a true copy of said answer.

X.

Respondents admit that on about March 24, 1892, a special session of said Interstate Commerce Commission was held at the city of Atlanta, in the State of Georgia; that these respondents had due and sufficient notice of said hearing; that they appeared at said hearing by their respective officers and attorneys; and that some, if not all, of their codefendants appeared, by their officers or attorneys, at said hearing.

XI.

Respondents deny that at said hearing, or at any other time, it was made to appear to the satisfaction of said Commission that respondents had in any respect violated any of the provisions of the act to regulate commerce.

Respondents deny that said Commission duly or legally determined the matters or things in controversy or at issue between said parties.

98 Respondents admit that said Commission made a report in writing upon said matters and things, which report included certain alleged findings of fact upon which certain alleged conclusions of said Commission purported to be based; and that Exhibit J to the petition filed in this case is a true copy of said report.

XII.

Respondents admit that said Commission formulated an order and notice in relation to said matters and things which purported to be based upon the alleged findings and determinations of said Commission with respect thereto; that Exhibit K to the petition filed in this case is a true copy of said order and notice; and that said order has never been vacated, set aside, altered, modified, or changed in any respect whatever. But respondents deny that said order and notice were made agreeably to the requirements of the statute in such case made and provided, or that said order now remains in full force or effect.

XIII.

Respondents admit that on about November 11, 1892, said Commission caused a properly authenticated copy of said report and of said order and notice to be delivered to respondents, and they suppose that authenticated copies of said report and order and notice were delivered to their codefendants.

XIV.

Respondents deny that they, or either of them, have been unmindful of their duty, or of any lawful decision or determination of said Commission. They deny that they have wholly, or at all, disregarded or set at naught the lawful authority of said Commission in any regard whatever. They deny that they have wilfully, or knowingly, or at all, violated or disobeyed any lawful order or notice made or issued by said Commission.

They admit that they have declined and do still decline to comply with said alleged order made to said Commission, because, as they are advised, said order was not lawful and not binding upon them. They admit that they have not ceased or desisted from charging or receiving greater compensation in the aggregate for the transportation of property from New York and other North Atlantic ports for the shorter distance to Newnan, Grantville, Hogansville, Lagrange, and West Point, in the State of Georgia, than for the longer distance in the same direction to Opelika, in the State of Alabama; but for reasons hereinafter stated they insist that they have the lawful right to charge and receive such compensation.

99 They admit that they have not made application to said Commission for relief under the proviso clause of the fourth section of the act to regulate commerce, and the reason why they have not made such an application is that they have not done or propose to do anything which, in their opinion, requires them to make application for such relief.

Respondents are advised and insist that the said order and notice, made and issued by said Commission, was, and is, unlawful and void for the following, among other reasons:

First. The transportation of property from New York and other North Atlantic ports to Newnan, Grantville, Hogansville, Lagrange, and West Point, in the State of Georgia, is not conducted under substantially similar circumstances and condition with the transportation of property from New York and other North Atlantic ports to Opelika, in the State of Alabama.

Newnan, Grantville, Hogansville, and Lagrange, Georgia, are local stations on the Atlanta & West Point Railroad. There is no other railroad and no navigable water course at either of said places, and therefore there is no competition by either rail or water existing at any of said places.

Freight rate to said places from New York and other North Atlantic ports are arrived at by taking the rates from New York and other North Atlantic ports to Atlanta, Georgia, and adding thereto certain reasonable local rates from Atlanta to Newnan, Grantville, Hogansville, and Lagrange, respectively. Said local rates are reasonable and are approved by the railroad commission of the State of Georgia, under an act of the

legislature of that State which authorizes said commission to decide upon the reasonableness of such rates.

The through rates from New York and other North Atlantic ports to Atlanta are fixed by active competition between various lines of transportation, some of which are all rail and some of which are part water and part rail.

The Clyde Steamship Co.'s line of steamers from New York to Charleston, the South Carolina Railway from Charleston to Augusta, and the Georgia Railroad from Augusta to Atlanta form one of said part water and part rail lines. It is impossible for that line to obtain any higher through rates to Atlanta than are charged by its numerous and powerful competitors.

There is also active competition between the various lines above referred to as running from New York and other North Atlantic ports to Atlanta and certain other lines running from Cincinnati and other Ohio and Mississippi River points to Atlanta, said competition being
100 for the carriage to Atlanta of products similar to those carried there from New York and other North Atlantic ports.

Said lines running from New York and other North Atlantic ports are forced to accept rates which bear a certain relation to the rates offered on similar products by the lines running from Cincinnati and other Ohio and Mississippi River points to Atlanta.

The Georgia Railroad and its above-named connections east of Augusta divide among themselves in certain agreed proportions the through rates charged from New York and other North Atlantic ports to Atlanta; but they receive no part of the local rates charged by the Atlanta & West Point Railroad Company for transportation from Atlanta to Newnan, Grantville, Hogansville, or Lagrange. It is wholly immaterial to the Georgia Railroad and its connections east of Augusta whether freight shipped from New York and other North Atlantic ports via Atlanta stops at Atlanta or goes forward to Newnan, Grantville, Hogansville, or Lagrange.

When freights from New York and other North Atlantic ports are destined to Newnan, Grantville, Hogansville, or Lagrange, the Clyde Steamship Company issues its own through bills of lading at New York, and guarantees that the total rates to destination shall not exceed the through rates to Atlanta, added to the local rates of the Atlanta & West Point R. R. Co. from Atlanta to said points of destination, respectively; but the Clyde Steamship Company, the South Carolina Railway Company, and the Georgia Railroad do not obligate themselves, or either of them, for the continuous carriage or shipment of such freights beyond their own lines, respectively, nor do they assume to control in any way the local rates which may be charged upon such freights by the Atlanta & West Point R. R. Co.

Said Atlanta & West Point R. R. Co. declines and refuses to form a through rate, or to agree upon through rates, to its said local stations from New York and other North Atlantic ports. It receives shipments destined to such stations for the first time at Atlanta, and insist upon charging the same rates from Atlanta to destination as if said shipments had originated at Atlanta.

The Georgia Railroad is powerless to compel the Atlanta & West Point R. R. Co. to form through rates, or to agree upon through rates, to or from its local stations.

If the Georgia Railroad should be enjoined from carrying such freights at the rates which prevail from New York and other North Atlantic ports to Atlanta, such freights would be carried by some of the various lines which compete with the Georgia Railroad and its connections, or they would not be carried at all.

101 Second.—Opelika, Alabama, is situated at the intersection of the Columbus & Western Railroad with the Western Railway of Alabama. It is 29 miles distant from Columbus, Ga., and 66 miles distant from Montgomery, Ala. It is connected with Columbus by the Columbus & Western R. R., and with Montgomery by the Western Railway of Alabama.

The Apalachicola and Chattahoochee rivers are navigable from Apalachicola up to Columbus, except during a portion of the summer.

The Alabama River is navigable from Mobile to Montgomery, and two lines of steamers ply between those points.

There is direct water communication from New York and other North Atlantic ports to Montgomery via Mobile, and the New York and Mobile Steamship Company is one of the lines engaged in transportation between New York and Mobile.

There is also direct water communication from Cincinnati and other Ohio and Mississippi river points to Montgomery via New Orleans and Mobile.

There are a number of transportation lines, some of which are all rail and some of which are part water and part rail, which compete for traffic from New York and other North Atlantic ports to Columbus, Montgomery, and Opelika, respectively, and which fix the rates between said points.

The Clyde Steamship Co.'s line of steamers from New York to Charleston; the South Carolina Railway from Charleston to Augusta; the Georgia Railroad from Augusta to Atlanta; the Atlanta & West Point Railroad from Atlanta to West Point; and the Western Railway of Alabama from West Point to Montgomery, form one of said part water and part rail line. It is impossible for that line to obtain any higher rates than are charged by its numerous powerful competitors.

There is also active competition between the various lines above referred to as running from New York and other North Atlantic ports to Columbus, Montgomery, and Opelika, respectively, and other lines running from Cincinnati and other Ohio and Mississippi River points to Columbus, Montgomery, and Opelika, respectively; said competition being for the carriage to Columbus, Montgomery, and Opelika, respectively, of products similar to those carried there from New York and other North Atlantic ports.

Said lines running from New York and other North Atlantic ports are forced to accept rates which bear a certain relation to rates offered

102 on similar products by the lines running from Cincinnati and other Ohio and Mississippi points to Columbus, Montgomery, and Opelika, respectively.

The Georgia Railroad and its above-named connections are compelled to accept the rates fixed by competition, as aforesaid, from New York

and other North Atlantic ports to Opelika, or abandon the traffic to the rival lines.

West Point, Georgia, is the western terminus of the Atlanta & West Point Railroad and the eastern terminus of the Western Railway of Alabama. It is only 22 miles distant from Opelika, and therefore the rates to West Point can not be made to exceed the through rates to Opelika, added to reasonable local rates from Opelika to West Point; but as the pressure of competition is not as great at West Point as at Opelika, the rates to West Point are somewhat higher than to Opelika.

While the proportions which the Georgia Railroad and its said connections receive of such through rates to Opelika and West Point are small, yet they are more than the additional cost of transporting such traffic; and it is therefore to their interest, as well as to the interest of the public, that they should remain in the field as a competitor for such traffic.

But it would be impossible for the Atlanta & West Point Railroad or the Western Railway of Alabama to earn operating expenses if they were compelled to carry all of their traffic at rates as low as the proportions which they are respectively compelled to accept of the through rates from New York and other North Atlantic ports to Opelika, or as the Atlanta & West Point R. R. Co. is compelled to accept of the through rates from New York and other North Atlantic ports to West Point; and if the order made by the Commission in this case should be enforced, those companies would be forced to abandon the Opelika and West Point through rates and adhere to the present local rates to Newnan, Grantville, Hogansville, and La Grange. The result would not benefit the last-mentioned points at all. The Georgia Railroad and its connections would lose the Opelika and West Point traffic. Opelika and West Point would lose the competition of Georgia Railroad and its connections, but no one would be benfited in the least.

And having fully answered, respondents pray to be hence dismissed with their reasonable costs, etc.

JOS. B. CUMMING,
ED. BAXTER,
Solicitors for Respondents.

LOUISVILLE & NASHVILLE RAILROAD COMPANY,
[L. & N. SEAL.] By M. H. SMITH, *President.*
Attest: J. H. ELLIS, *Secretary.*

103 STATE OF KENTUCKY, *Jefferson County:*

Personally appeared before me, G. W. B. Olmstead, a notary public duly appointed, commissioned, and qualified in and for the State and county aforesaid, M. H. Smith and J. H. Ellis, who are, respectively, the president and secretary of the Louisville & Nashville Railroad Company, the above-named respondent, and signed the foregoing answer, and affixed thereto the seal of said company, as the answer of said company.

Witness my hand and notarial seal of office, at Louisville, Ky., this 8th day of August, 1893.

[N. P. SEAL.] G. W. B. OLMSTEAD,
Notary Public.

Filed in clerk's office 10' day of August, 1893. O. C. Fuller, clerk.

* * * * * * *

105 *Stipulation as to depositions of Fuller E. Callaway, E. R. Bradfield, sr., W. V. Gray, and C. V. Truitt.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE Atlanta & West Point Railroad Company et al. } In equity, No. 526.

In the above-entitled cause it is stipulated and agreed by counsel for the complainants and counsel for the defendants that the depositions of the following-named witnesses for the complainant, to wit, Fuller E. Callaway, E. R. Bradfield, sr., W. V. Gray, and C. V. Truitt, of La Grange, Ga., may be taken on the foregoing and annexed direct and cross-interrogatories and may be read in evidence on the hearing of counsel for the complainant and by counsel for the defendants that the depositions of the following-named witnesses for the complainant, to wit, Fuller E. Callaway, E. R. Bradfield, sr., W. V. Gray, and C. V. Truitt, of La Grange, Ga., may be taken on the foregoing and annexed direct and cross-interrogatories and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency. All formal objections are waived.

It is further stipulated and agreed that E. R. Bradfield, jr., of La Grange, Ga., may act as commissioner in taking said depositions. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

ED. BAXTER,
Counsel for the Defendants, as of Record.

106 Filing: Filed in clerk's office 12' day of Aug., 1897. O. C. Fuller, clerk, by J. D. Steward, deputy.

Interrogatories to Fuller E. Callaway, E. R. Bradfield, sr., W. V. Gray, and C. V. Truitt.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE Atlanta & West Point Railroad Company et al. } In equity, No. 526.

Interrogatories filed in the above-entitled cause on behalf of the complainant therein, and to be exhibited to Fuller E. Callaway, E. R. Bradfield, sr., W. V. Gray, and C. V. Truitt, of La Grange, Georgia.

Interrogatory No. 1. What is your name and residence, and in what occupation and business are you engaged?

Interrogatory No. 2. If you say you reside at La Grange, Ga., state how long that place has been your residence and how long you have been engaged in business there and in what business.

Interrogatory No. 3. State whether merchants of Opelika, Ala., sell goods and do business at La Grange, West Point, Hogansville, Grantville, and Newnan, and also in territory around those points.

Interrogatory No. 4. Name points or localities around or beyond La Grange from Opelika at which Opelika merchants sell goods or do business, and state how far such points are from or beyond La Grange, and whether goods in order to reach such points from Opelika have to be hauled through La Grange, and over what road.

107 Interrogatory No. 5. State whether merchants of Lagrange attempt to sell goods and do business at such points in territory around and beyond Lagrange, and whether in doing so they come in competition with merchants of Opelika.

Interrogatory No. 6. State whether Lagrange merchants can successfully compete with Opelika merchants in selling goods and doing business at Lagrange, and in territory around and beyond Lagrange.

Interrogatory No. 7. If, in answer to the preceding interrogatory, you state that Lagrange merchants are placed at a disadvantage in this competition with Opelika merchants, state what this disadvantage results from.

Interrogatory No. 8. If, in answer to the preceding interrogatory, you say this disadvantage results from a discrimination in rates in favor of Opelika and against Lagrange, give examples of this discrimination in rates in the sale of dry goods, groceries, etc.

Interrogatory No. 9. State how long this discrimination in favor of Opelika has existed, and what effect, if any, it has had in retarding the growth of Lagrange.

Interrogatory No. 10. State whether Lagrange merchants buy their goods from Opelika or direct from New York and other Eastern cities, or other sources of supply, and when goods are bought in New York and other Eastern cities, whether they are shipped to Lagrange under a through bill of lading, naming a through rate to Lagrange, and whether goods from New York and other Eastern cities, after reaching Charleston, are hauled through to Lagrange without transfer or breakage of bulk, and in the same cars in which they were originally loaded.

Interrogatory No. 11. State the population and mercantile and manufacturing enterprises of Lagrange.

Interrogatory No. 12. Are there any other railway lines or
108 roads reaching Lagrange besides the Atlanta & West Point Railroad? If so, state whether such other lines or roads have connections with roads leading to or from New York and other Eastern cities. Name such lines and connections.

Interrogatory No. 13. Do transportation rates or charges enter into and affect the prices at which yourself and other Lagrange merchants can sell goods to consumers in and around Lagrange?

Interrogatory No. 14. How would a reduction in the rates on goods of all classes from New York and other Eastern cities to Lagrange, West Point, Hogansville, Grantville, and Newnan, so as to make the rates to those points not higher than the rates to Atlanta, affect the prices at which merchants at Lagrange, West Point, Hogansville, Grantville,

and Newnan could sell goods to their customers? Would such reduction in rates lower or raise such prices?

Interrogatory No. 15. How do prices of goods affect their sale or consumption? Are more goods sold to consumers when goods are cheap, or when they are high? What is your opinion and experience in reference to this matter?

Interrogatory No. 16. Will a reduction in the rates on all classes of goods from New York and other Eastern cities to Lagrange, West Point, Hogansville, Grantville, and Newnan, so as to make the rates to those points not higher than the rates from New York and other Eastern cities to Atlanta, increase or diminish the tonnage of traffic which will be hauled by the roads to Lagrange, West Point, Hogansville, Grantville, and Newnan? Give your reasons for whatever opinion you may express in answer to this interrogatory.

Interrogatory No. 17. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and inducing the investment of capital there, and in promoting the prosperity of such locality in other respects?

Interrogatory No. 18. What effect, if any, do relatively high rates to a locality or rates which discriminate against a locality have on its prosperity or progress in the respects named in the preceding interrogatory?

109 Interrogatory No. 19. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Counsel for the Complainant.

Cross-examination:

Cross-examination waived.

ED BAXTER,
Solr. for Defl. as of Record.

Answers of Fuller E. Callaway.

INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP CO., THE ATLANTA & WEST POINT R. R. Co., et al.

The witness, Fuller E. Callaway, being duly sworn to speak the truth, the whole truth, and nothing but the truth, deposeth as follows:

1. Fuller E. Callaway, Lagrange, Ga.; merchant.

2. I reside in Lagrange, Ga. It has been my residence for 27 years (all my life). Have been engaged in mercantile business here for nine years for my own account.

3. Merchants of Opelika do business with the small merchants in Lagrange and adjacent country territory. As for the other points, I know nothing.

4. Merchants of Opelika sell goods to country merchants near and beyond Lagrange and ship by Western Ry. of Ala. and Atlanta and

West Point Ry. to Lagrange, where country merchant takes them in wagons. These points range from 5 to 20 miles beyond Lagrange.

5. Yes. Lagrange merchants attempt to compete with Opelika merchants around and beyond Lagrange.

6. No. They are at a disadvantage.

7. Because Lagrange, Ga., is discriminated against in freight rate.

8. Example: I take 1st class rate of freight in example below; all others are in proportion. Opelika, Ala., merchants ship first-class freight from New York City through Lagrange, Ga., to Opelika, Ala., for $1.14 per 100 lbs. The Western Railway of Alabama and Atlanta & West Point Railway haul 1st-class freight from Opelika, Ala., to Lagrange, Ga., for 32c. per 100 lbs. This makes a total rate on first-class freight from New York City to Opelika, Ala., and then hauled back to Lagrange, Ga., at $1.46 per hundred pounds, while the said carriers charge and collect the sum of $1.53½ per hundred pounds to haul 1st-class freight from New York City to Lagrange. In doing this the carriers haul first-class freight 38 miles beyond Lagrange, Ga., and haul it back to Lagrange, Ga., for 7½c. per 100 lbs. less than they will stop at Lagrange, Ga. This enables the Opelika merchant to ship his goods from New York City through Lagrange, Ga., to Opelika, Ala., 38 miles beyond, and then reship back to Lagrange, Ga., at 7½c. per hundred pounds less (on first-class freight) than the Lagrange merchant can ship them direct from New York City to Lagrange, Ga. This enables the Opelika, Ala., merchant to undersell the Lagrange, Ga., merchant at their front door 7½c. per hundred lbs. (on first-class freight) and make the same profit.

9. It is existing as above, now, and has existed in different degrees for the past nine years. It has retarded the growth of Lagrange, Ga.

10. The larger Lagrange merchants buy their goods in New York and other supply markets. Goods are shipped from New York City to Lagrange, Ga., on a through bill of lading with a through rate inserted in same. I don't know whether goods are transferred from one car to another between Charleston, S. C., and Lagrange, Ga.

11. About 5,000 population now. Lagrange has 2 cotton mills, oil mill, foundry, creamery, planing mills, buggy and carriage factories, guano factory, and other small industries, and 30 or 40 mercantile houses, &c.

12. Yes. The Macon and Birmingham Railroad has its western terminal at Lagrange, Ga., at present; it connects at Macon, Ga., for New York with several lines—1st, with Central of Georgia, to Athens, Ga., there with Seaboard Air Line to Norfolk, then with Old Dominion Steamship Co. for New York. 2nd, with Central of Ga. Macon to Savannah, Ga., there with Ocean Steamship Co. to New York. 3rd, with Georgia Railroad to Augusta, Ga., there with S. C. and Ga. R. R. to Charleston, S. C., then with Clyde Line to N. Y. 4th, with Georgia R. R. to Augusta, Ga., there with Atlantic Coast Line and its connections to New York, and one or two other connections at Macon, Ga., to New York City.

13. Yes. Considerably.

14. Such reduction in rates would lower the prices of goods.

15. Low prices increase sale and consumption of goods. High prices

curtail sale and consumption of goods. More goods are sold to consumer when goods are cheap.

16. It would increase the tonnage, because it would enable us to sell goods cheaper; consequently, sell more.

17. It has the effect of increasing the population, wealth, and general welfare of the locality.

18. It has just the opposite effect to my answer to preceding question.

19. I know nothing else. The facts in the preceding answers are "a plenty."

FULLER E. CALLAWAY.

Answers of C. V. Truitt.

The witness, C. V. Truitt, being duly sworn to speak the truth, the whole truth, and nothing but the truth, deposeth as follows:

1. C. V. Truitt, LaGrange, Ga.; supply merchant.

2. I have lived in LaGrange, Ga., for 20 years, and have been engaged in supply business for 15 years.

3. They do.

4. Louise, Mountville, Odessa, Hogansville. From 7 to 15 miles beyond LaGrange from Opelika. Yes, goods have to be hauled through LaGrange and over Atlanta and West Point and Macon & Birmingham R. Rs.

5. They make the attempt at the points named, except Hogansville, and they do come in competition with merchants of Opelika.

6. No, they can not compete with them.

7. Discrimination of R. R. rates in favor of Opelika.

8. I can not give the exact rates, but know from my own experience that the discrimination does exist.

9. It has existed for six or eight years, and of course places LaGrange at a great disadvantage.

10. The bulk of the goods are bought in New York and shipped to LaGrange on a through bill of lading, sometimes direct to LaGrange and sometimes via Charleston without breakage of bulk.

11. LaGrange is a city of about 5,000 people. It has 2 cotton mills, grist mill, carriage factory, oil mill, foundry, planing factory, &c.

112 12. There is another, the "M. & B," but I do not know its connections.

13. Yes, it certainly does.

14. It would necessarily make the prices lower.

15. The lower the prices the more goods are sold.

16. It would increase the tonnage of traffic, for when goods are cheap we can sell more, and, consequently, would have to buy more.

17. Low rates naturally promote all the interests you mention.

18. It has just the opposite from that just mentioned.

19. I know nothing further of any benefit.

C. V. TRUITT.

Answers of W. V. Gray.

The witness, W. V. Gray, being sworn to speak the truth, the whole truth, and nothing but the truth, deposeth as follows:

1. My name is W. V. Gray, and I reside at LaGrange. Am a merchant.

2. I have resided here for 22 years, and have been in business all that time.

3. Opelika does business with the points you name.

4. I know that they keep agents on the A. & W. P. R. R. for the purpose of selling goods at points around and beyond LaGrange; Hogansville, Newnan, Grantville, Whitfield, are among the points that are solicited by the Opelika agents.

5. They make the attempt, but are not able to compete with the Opelika merchants on account of their getting so much lower rates.

6. No, they can not.

7. From a discrimination on freight rates in favor of Opelika, enabling them to buy and sell goods cheaper than LaGrange.

8. Opelika merchants can get goods laid down at their own town and reship to LaGrange for less than original LaGrange rates.

9. As long as I have lived in LaGrange—for 22 years—it has badly handicapped LaGrange in drawing her trade from her.

10. A part of LaGrange's goods are bought in Opelika and a part are bought in East. They are not hauled from New York over other Eastern cities without breakage of bulk and in the same cars in which originally loaded.

113 11. The population is about 5,000. There are between forty and fifty business houses, 2 cotton factories, and one adjacent cotton factory, granary factory, oil mills, grist mills, &c.

12. The Macon and Birmingham from LaGrange to Macon is a new road just completed to LaGrange, but I do not know its connections.

13. Yes, they do.

14. It would lower the prices of LaGrange and enable her to compete with other places.

15. More goods are sold when prices are low, and a place has much more life and growth when it has a good market and gets the reputation of selling goods cheap.

16. It would greatly increase the tonnage of traffic by enabling us to offer goods for less, and consequently sell and buy more.

17. Low rates and its consequent low prices has a tendency to stimulate trade and build up the town, and this effect naturally attracts capital and increases the population.

18. It has a contrary effect from that given in preceding answers.

19. I know nothing further.

W. V. GRAY.

Answers of E. R. Bradfield.

The witness, E. R. Bradfield, being sworn to speak the truth, the whole truth, and nothing but the truth, deposeth as follows:

1. My name is E. R. Bradfield; residence, LaGrange; occupation, merchant.

2. I have been a resident of LaGrange forty-five years; have been in D. G. business for twenty-five years.

3. They do.

4. Hogansville, Mountville, Antioch, Houston, Franklin, and other small towns near LaGrange at a distance of five to twenty miles. Goods are shipped to these point' over A. & W. P. and W. of Ala.

5. Merchants of LaGrange do a jobbing business and come in competition with merchants of Opelika.

6. They can not unless they are put on an equal footing with merchants of Opelika.

7. On account of discrimination against them in freight rates.

8. Opelika merchants can haul goods to their own town and reship back to LaGrange for less than LaGrange can get them.

114 9. This discrimination has been going on for ten or fifteen years in different degrees, and has retarded the growth of LaGrange very much.

10. LaGrange merchants buy their goods from New York, Phil., and other supply markets naming a through rate. I do not know whether they are transferred in transit or not.

11. Population about 5,000; forty or fifty merchants; six or eight manufacturing enterprises.

12. It has one other R. R. besides the A. & W. P., which has connection with New York at Macon.

13. It does.

14. A reduction in rates would lower the price of goods.

15. Low prices increase sales.

16. It would increase the tonnage to LaGrange, for we would sell more goods than we do.

17. It has a very beneficial effect on the town.

18. It has just the opposite effect.

19. I know nothing further of benefit.

E. R. BRADFIELD.

I, E. R. Bradfield, jr., of LaGrange, Ga., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me said witnesses, to wit, Fuller E. Callaway, C. V. Truitt, W. V. Gray, E. R. Bradfield, sr., and having duly sworn them to speak the truth, the whole truth, and nothing but the truth, took down their answers to said interrogatories, and that the foregoing pages contain a full, true, and correct report of the testimony given by each of said witnesses.

This 2nd day of September, 1897.

E. R. BRADFIELD, JR., *Commissioner.*

(Indorsed on envelope:) To O. C. Fuller, clerk of the cir. ct. of the United States for the northern district of Georgia, Atlanta, Georgia. Atlanta, Ga. Received by due course of mails this 2 day of Sep., 1897. Amos Fox, P. M. Received from the hands of the postmaster at Atlanta, Ga., and filed this 3 day of Sept., 1897. O. C. Fuller, clerk.

115 *Stipulation as to deposition of S. T. Whitaker, L. S. Turner, J. S. Baker, and Z. Hagedorn.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company et al.
} In equity, No. 526.

In the above-entitled cause it is stipulated and agreed by counsel for the complainant and by counsel for the defendants that the depositions of the

following-named witnesses for the complainant, to wit, S. T. Whitaker, L. S. Turner, J. S. Baker, and Z. Hagedorn, of West Point, Georgia, may be taken on the foregoing and annexed direct and cross interrogatories, and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency. All formal objections are waived.

It is further stipulated and agreed that B. H. Hill, esq., of West Point, Georgia, may act as commissioner in taking said depositions. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.
ED. BAXTER,
Counsel for Defendants, as of record.

Filing: Filed in clerk's office 12 day of Aug., 1897. O. C. Fuller, clerk; by J. D. Steward, deputy.

Interrogatories to S. T. Whitaker, L. S. Turner, J. S. Baker, and Z. Hagedorn.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & WEST POINT RAILROAD COMPANY, et al.
} In equity, No. 526.

116 Interrogatories filed in the above-entitled cause on behalf of the complainant therein and to be exhibited to S. T. Whitaker, L. S. Turner, J. S. Baker, and Z. Hagedorn, of West Point, Georgia:

Interrogatory No. 1. What is your name and residence, and in what occupation or business are you engaged?

Interrogatory No. 2. If you say you reside at West Point, Ga., state how long that place has been your residence, and how long you have been engaged in business there and in what business.

Interrogatory No. 3. State whether merchants of Opelika, Ala., sell goods and do business at West Point, Lagrange, Hogansville, Grantville, and Newnan, and also in territory around those points.

Interrogatory No. 4. Name points or localities around or beyond West Point from Opelika at which Opelika merchants sell goods or do business, and state how far such points are from or beyond West Point, and whether goods in order to reach such points from Opelika have to be hauled through West Point and over what road.

Interrogatory No. 5. State whether merchants of West Point attempt to sell goods and do business at such points in territory around and beyond West Point, and whether in doing so they come in competition with merchants of Opelika.

Interrogatory No. 6. State whether West Point merchants can successfully compete with Opelika merchants in selling goods and doing business at West Point, and in territory around and beyond West Point.

Interrogatory No. 7. If, in answer to the preceding interrogatory, you

state that West Point merchants are placed at a disadvantage in this competition with Opelika merchants, state what this disadvantage results from.

Interrogatory No. 8. If, in answer to the preceding interrogatory, you say this advantage results from a discrimination in rates in favor of Opelika against West Point, give examples of this discrimination in rates in the sale of dry goods, groceries, etc.

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Interrogatory No. 9. State how long this discrimination in favor of Opelika has existed, and what effect, if any, it has had in retarding the growth of West Point.

Interrogatory No. 10. State whether West Point merchants buy their goods from Opelika or direct from New York and other Eastern cities or other sources of supply, and when goods are bought in New York and other Eastern cities, whether they are shipped to West Point under a through bill of lading, naming a through rate to West Point, and whether goods from New York and other Eastern cities after reaching Charleston are hauled through to West Point without transfer or breakage of bulk, and in the same cars in which they were originally loaded.

Interrogatory No. 11. State the population and mercantile and manufacturing enterprises of West Point.

Interrogatory No. 12. Do transportation rates or charges enter into and affect the prices at which yourself and other West Point merchants can sell goods to consumers in and around West Point?

Interrogatory No. 13. How would a reduction in the rates on goods of all classes from New York and other Eastern cities to West Point, Lagrange, Hogansville, Grantville, and Newnan, so as to make the rates to those points not higher than the rates to Opelika and Atlanta, affect the prices at which merchants at West Point, Lagrange, Hogansville, Grantville, and Newnan could sell goods to their customers? Would such reduction in rates lower or raise such prices?

Interrogatory No. 14. How do prices of goods affect their sale or consumption? Are more goods sold to consumers when goods are cheap, or when they are high? What is your opinion and experience in reference to this matter?

118

Interrogatory No. 15. Will a reduction in the rates on all classes of goods from New York and other Eastern cities to West Point, Lagrange, Hogansville, Grantville, and Newnan, so as to make the rates to those points not higher than the rates from New York and other Eastern cities to Opelika and Atlanta, increase or diminish the tonnage of traffic which will be hauled by the roads to West Point, Lagrange, Hogansville, Grantville, and Newnan? Give your reasons for whatever opinion you may express in answer to this interrogatory.

Interrogatory No. 16. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and inducing the investment of capital there, and in promoting the prosperity of such locality in other respects?

Interrogatory No. 17. What effect, if any, do relatively high rates to a locality or rates which discriminate against a locality have upon its prosperity or progress in the respects named in the preceding interrogatory?

Interrogatory No. 18. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at

issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for the Complainant.

Cross-examination:
Cross-examination waived.

ED. BAXTER,
Solr. for Defts. as of Record.

Answers of Z. Hagedorn.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA and West Point R. R. Company, et al. } In equity, No. 526.

119 The witness, Zach. Hagedorn, being sworn to speak the truth, the whole truth, and nothing but the truth in answering attached interrogatories, doth depose as follows:

Int. No. 1. My name is Zach. Hagedorn. I live in West Point. Am one of the firm of J. J. Hagedorn & Co., and am engaged in the wholesale and retail dry goods, clothing, furniture, and shoes, as well as every other branch of necessary and useful merchandise.

Int. No. 2. I have lived in West Point, Ga., about 26 years, and have been engaged in the business aforesaid the number of years mentioned.

Int. No. 3. Yes. Merchants of Opelika, Ala., do business in the territory tributary to West Point. Am not convinced whether or not they do business in the towns mentioned.

Int. No. 4. Yes. Merchants of Opelika ship some classes of merchandise to this place and beyond to Gabbettsville, Lagrange, Hogansville, and Grantville almost daily. The distance of such points mentioned from West Point is about 6, 15, 30, and 38 miles, respectively. Shipments thus made must go through West Point and over the W. R. R. of Ala. and the A. & W. P. R. R. Opelika merchants also ship to all intermediate points on the Central of Ga. R. R. from Opelika to Roanoke, including the towns of Lafayette and Roanoke. They also ship goods to Cusseta, Ala., on the W. R. R. of Ala., which station is 10 miles south of West Point.

Int. No. 5. Merchants in West Point, Ga., can not in many lines of merchandise compete successfully with merchants of Opelika, on account of discrimination in freight rates in favor of Opelika.

Int. No. 6. If purchasing and selling prices are equal, West Point merchants can not compete successfully with Opelika merchants, on account of aforesaid discrimination of freight rates in favor of Opelika.

Int. No. 7. The disadvantage results from the difference in freight rates in favor of Opelika.

Int. No. 8. For example, I state that the 1st-class rate of dry goods and other merchandise from New York and other Eastern points to

West Point, Ga., is $1.42 per cwt.; to Opelika from the same points the rate is $1.14 per cwt., a difference of 28 cts. per cwt. in favor of Opelika.

Int. No. 9. To the best of my knowledge this discrimination in favor of Opelika has existed about 10 years. It has been hurtful to the trade and growth of West Point ever since.

Int. No. 10. West Point merchants do not buy their goods from Opelika, but direct from New York and other Eastern and
120 Western centers of trade under through bills of lading, naming a through rate to West Point thereon. I do not know whether or not goods are reloaded or transferred after leaving Charleston in bulk from cars in which they were originally loaded.

Int. No. 11. The population of West Point and suburbs is estimated at about 6,000. There are many mercantile establishments here of all kinds, some of which are of considerable importance. In Lanette, a suburb of West Point, also Langdale and Galeton, suburbs of West Point, are three large cotton mills, running about 48,000 spindles. We also have iron works, a foundry, an oil mill, and various other manufacturing interests. We have waterworks, and our city is lighted by electricity.

Int. No. 12. It does.

Int. No. 13. Lower rates to points named equal to rates to Opelika and Atlanta would enable merchants of West Point to sell their goods equally as cheap as Opelika. Such reduction would lower prices.

Int. No. 14. Prices of goods affect their sale and consumption, inasmuch as when goods are high people can and do buy only necessary articles, while when goods are cheaper the demand, supply, and consumption is in proportion to the price.

Int. No. 15. A decrease in rate will increase the tonnage of traffic for reasons stated in the foregoing, or 14th, int.

Int. No. 16. Relatively low or preferential rates to a locality have a tendency to increase the population of such localities and induce investment of capital there and promote prosperity in said locality in other respects.

Int. No. 17. The effect of high or discriminating rates to a locality have a tendency to retard the growth of such locality, reduce real-estate values, increase taxes, diminish population, and are otherwise harmful in many respects.

Int. 18. Yes. It is a fact that the discriminating rates have caused many of our merchants to be less prosperous than they would have been. For example, the section of the country between West Point and Opelika, known as the Cusseta district, formerly gave all of its trade to West Point, and we have examples almost daily of the effect of the lower rate in favor of Opelika, hence our losses. I also state that the rate given to the Opelika makes it a better cotton market, therefore looses to West Point the marketing of a great deal of cotton from a country or section directly tributary to West Point.

Z. HAGEDORN. [L. S.]

Sworn to and subscribed before me this 13th day of Sept., 1897.

[SEAL OF N. P.]

B. H. HILL,
N. P. and Commissioner.

121 *Answers of Jas. S. Baker.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA AND West Point R. R. Company, et al.
} In equity, No. 526.

The witness Jas. S. Baker, being duly sworn to speak the truth, the whole truth, and nothing but the truth, in answering the attached interrogatories, doth depose as follows:

Int. No. 1. My name is James S. Baker; I live in West Point, Ga.; my business is that of merchandising.

Int. No. 2. I was born in West Point, Ga., in Oct., 1844, and have lived here since that time. Have been merchandising 31 years.

Int. No. 3. They do business here and in surrounding towns.

Int. No. 4. Gabbettsville, 6 miles; Lagrange, 16 miles; Hogansville, 28 miles. Goods from Opelika to above points have to be hauled through West Point over the W. R. R. of Ala. and the A. & W. P. R. R.

Int. No. 5. They do not attempt to sell goods at such railroad points as named above, as the difference in rates prohibit.

Int. No. 6. They can not.

Int. No. 7. Results from discrimination in rates in favor of Opelika.

Int. No. 8. First-class rates from New York, Philadelphia, and other Eastern points to Opelika are $1.14 per cwt., and to West Point from same points $1.42 per cwt. On flour from Ohio River points to Opelika the rate is 52 cts. per bbl.; to West Point the rate is 69½ cts. per bbl. The rate on bacon from Chicago to Opelika is 45 cts. per cwt.; to West Point 63 cts. per cwt. On corn from Louisville, Ky., and Henderson, Ky., and Cincinnati, Ohio, to Opelika, 26 cents per cwt.; to West Point from same points 34 cts. per cwt. Rates on fertilizers from Charleston and Savannah to Opelika $3.00 per ton; to West Point from same points $3.25 per ton, and most of the fertilizers from Charleston and other Carolina points pass through West Point to Opelika.

Int. No. 9. Since soon after the appointment of Interstate Railroad Commission. To say how much it has retarded the growth of the town I can't, but the discrimination has affected the business interests very much.

122 Int. No. 10. We buy some goods in Opelika. Most of our larger houses, however, buy them direct from New York and other cities, and they are shipped to us on through bills of lading with through rates, and I have saved some money, a few times, by having goods shipped to Opelika and then having them reshipped to West Point. Most of our goods come to Charleston by steamer, and of course are transferred to cars and brought thence to West Point.

Int. No. 11. The commercial population is about 6,000. We have a number of the best mercantile firms in Georgia, with a sufficient capital to do a large business if they had as low rates of freight as their neighboring town Opelika. We have three large cotton factories that run about 48,000 spindles, an oil mill, foundry, machine shop, bleachery, and

dye works, roller-covering works, and several other manufacturing establishments.

Int. No. 12. They do not.

Int. No. 13. Rates to West Point equal to Opelika and Atlanta would enable us to give the consumer the difference in said rates in the price of goods which they purchase.

Int. No. 14. That depends on the price the farmers and other laborers get for their products and labor. If their products and labor bring good prices, they buy as many goods when high as when cheap.

Int. No. 15. It would increase the tonnage to West Point largely, and I believe would to the other towns mentioned. If we get lower rates here, we will sell very many more goods.

Int. No. 16. Relatively low or preferential rates has a tendency to invite manufacturing and all other business interests, which, of course, increase the population and promote the prosperity of such localities in very many respects.

Int. No. 17. High rates to a locality drives off business and manufacturing interests, and thereby prevent an increase in population.

Int. No. 18. Yes. The difference in rates to Opelika and West Point is so much that it pays our farmers to haul goods from Opelika in wagons. Opelika merchants draw trade from within four miles of our town on account of said difference in prices caused by lower rates. The farmers say that it pays them to haul their cotton that distance and buy their goods from Opelika merchants on account of aforesaid difference in prices. Before this discrimination in rates we were selling goods to people who lived within about four miles of Opelika.

J. S. BAKER. [L. S.]

Sworn to and subscribed before me this 13th day of Sept., 97.

B. H. HILL,
N. P. & Commissioner.

123 *Answers of S. T. Whitaker.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA and WEST POINT R. R. Company, et al.
In equity, No. 526.

The witness, S. T. Whitaker, being duly sworn to speak the truth, the whole truth, and nothing but the truth, in answering attached interrogatories, doth depose as follows:

Int. No. 1. My name is S. T. Whitaker. I live in West Point, Ga. Am cashier of the Bank of West Point.

Int. No. 2. Have been living in West Point all my life. Have been in the mercantile business 22 years.

Int. No. 3. Yes.

Int. No. 4. Lagrange, Hogansville, Grantville, Moreland, and Newnan, Ga., on the Atlanta and West Point R. R. Hauled through West Point on W. R. R. of Ala. and A. & W. P. R. R. Aforesaid places being situated 16, 30, 35, and 40 miles, respectively, from West Point.

Int. No. 5. They do not, being debarred on account of freight rates from Opelika.

Int. No. 6. They can not.

Int. No. 7. Discrimination in rates of freight in favor of Opelika.

Int. No. 8. For example, the rate on flour from Ohio River points, in bbls., is 52 cts. per bbl. to Opelika; to West Point, 69½ cts. per bbl., making a difference of 17½ cts. in favor of Opelika, which is a fine wholesale profit.

Int. No. 9. To the best of my knowledge, about 15 years. Can't say to what extent it has retarded the growth of West Point, but would think a conservative estimate would be at least 40%, as it has simply run all jobbers and wholesale merchants out of the town, and hampered the manufacturing interest to such an extent that new capital will not invest in that line. It has also hurt the price of real estate in proportion.

Int. No. 10. They do not, but buy direct from New York, and other Eastern and Western cities. They are shipped to West Point under a through bill of lading, on a through rate, and come through without transfer in carload lots.

Int. No. 11. The commercial of West Point is from five to six
124 thousand. It does a business of $1,000,000 in a mercantile way.

It has a large oil mill, machine shop, foundry, electric light plant, water works, three large cotton mills, running about 48,000 spindles. Her manufacturing interests would foot up at least $3,000,000 per annum.

Int. No. 12. It does.

Int. No. 13. Rates to West Point not higher than those to Opelika and Atlanta would enable merchants here to lower their prices, and thereby enable them to meet competition.

Int. No. 14. My experience and opinion in regard to this matter is that low prices increase the sale of goods, and therefore the profit and consumption.

Int. No. 15. It would increase the tonnage simply from the fact that merchants in the towns named would reach out across the country and draw new trade, and home people would consume more goods at a cheaper price, thereby increasing the tonnage of freights.

Int. No. 16. Cheap freight rates draw trade, and a thrifty town attracts people. Cheap freights draw manufacturing interests, for the reason that a good rate is the first thing considered in locating a manufacturing plant.

Int. No. 17. Discrimination in freight rates hamper and retard progress in every line.

Int. No. 18. Yes. A competitive freight rate would build up our town, make us a prosperous business center, thereby increasing our tonnage to such an extent that it would more than compensate the railroads for the loss in reducing rates.

S. T. WHITAKER. [L. S.]

Sworn to and subscribed before me this 13th day of Sept., /97.

[SEAL OF N. P.]

B. H. HILL,
N. P. and Commissioner.

Answers of Luther Turner.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA and West Point R. R. Company, et al.
} In equity, No. 526.

The witness, Luther S. Turner, being duly sworn to speak the truth, the whole truth, and nothing but the truth, in answering attached interrogatories, doth depose as follows:

125 Int. No. 1. My name is Luther S. Turner. I reside in West Point, Ga. I sell hardware and groceries.

Int. No. 2. I have resided in West Point 25 years, and have been in aforesaid business 22 years.

Int. No. 3. They do business in West Point and LaGrange, also in territory around said town.

Int. No. 4. They do business at Cusseta, which is about 10 miles south of West Point, and at LaFayette, about 20 miles, and Roanoke, about 41 miles; Camp Hill, 30 miles, and at Salem, which is about 32 miles from West Point, and other intermediate points which could be mentioned. Goods are hauled to Opelika through West Point, and then sold to West Point and LaGrange merchants, and then shipped back to them from Opelika.

Int. No. 5. They do not.

Int. No. 6. They can not successfully compete with Opelika merchants.

Int. No. 7. From discrimination in freight rates in favor of Opelika.

Int. No. 8. Opelika has a 1st-class rate of freight from New York, Boston, Philadelphia, and Providence at $1.14; 2nd class, 98; 3rd class, 86; 4th class, 73; 5th class, 60, and 6th class, 49 cts. per cwt.; and from Baltimore, 1st class, $1.07; 2nd class, 92; 3rd class, 81; 4th, 68; 5th, 56, and 6th, 46 cts. per cwt.

West Point's rate from New York, Boston, Philadelphia, and Providence is, 1st class, 1.42; 2nd class, 1.24; 3rd, 1.10; 4th, 93; 5th, 77, and 6th, 62 cts. per cwt. The rate from Baltimore to West Point, 1st class, is 1.35; 2nd, 1.18; 3rd, 1.05; 4th, 88; 5th, 73, and 6th, 59 cts. per cwt.

Rates of freight from Cincinnati, Ohio, Newport, and Lexington, Ky., to Opelika is, 1st class, 1.17; 2nd, 1.02; 3rd, 91; 4th, 76; 5th, 63, and 6th, 52 cts. per cwt. From Louisville, Ky., Evansville and Mt. Vernon, Ind., to Opelika, 1st-class rate, 1.07; 2nd, 92; 3rd, 81; 4th, 68; 5th, 56, and 6th, 46 cts. per cwt. From St. Louis, Mo., and Bellville, Ill., 1st class, 1.35; 2nd, 1.15; 3rd, 1.01; 4th, 82; 5th, 68, and 6th, 56 cts. per cwt. From Nashville, Tenn., to Opelika, 1st class, 72; 2nd, 62; 3rd, 56; 4th, 46; 5th, 38; 6th, 33 cts. per cwt. To West Point from Cincinnati, New York, and Lexington, 1st-class rate is 1.35; 2nd, 1.18; 3rd, 1.05; 4th, 88; 5th, 73, and 6th, 59 cts. per cwt. From Louisville, Ky., Mt. Vernon and Evansville, Ind., to West Point the 1st-class rate is 1.35; 2nd, 1.18; 3rd, 1.05; 4th, 88; 5th, 73, and 6th, 59 cts. per cwt. To West Point from St. Louis, Mo., and Bellville, Ill.,

the 1st-class rate is 1.63; 2nd, 1.41; 3rd, 1.25; 4th, 1.02; 5th, 85, and 6th, 69 cts. per cwt. To West Point from Nashville, 1st-class rate is 1.00; 2nd, 88; 3rd, 80; 4th, 66; 5th, 55, and 6th, 46 cts. per
126 cwt. All goods go through West Point to Opelika, which is 22 miles beyond West Point.

Int. No. 9. It has existed for 10 or 12 years and has retarded the growth of West Point very materially.

Int. No. 10. The merchants of West Point buy some goods from Opelika merchants. The goods shipped from New York and other Eastern cities are shipped on through bill of lading and arrive in West Point in cars in which they were originally loaded.

Int. No. 11. The population of West Point and suburbs is about 6,000. The merchants of West Point do annually a business of about $1,000,000.00. Our factories run 48,000 spindles and consume daily 90 bales of cotton. We have an oil mill with a capacity of 30 tons per day. Foundry, machine shop, bleachery, and dye works, and various other enterprises.

Int. No. 12. They do very materially.

Int. No. 13. It would reduce prices very materially.

Int. No. 14. My experience and opinion is that we sell a great many more goods when cheap than when high.

Int. No. 15. It would increase the tonnage considerably if we had such rates as Atlanta and Opelika.

Int. No. 16. Low rates would increase our business, which would naturally demand more capital and more people.

Int. No. 17. It retards all progress, prevents people with capital from coming to such cities, keeps real estate cheap, and measurably cuts off communication with the commercial world.

Int. No. 18. Yes; New Orleans ships goods to Opelika, Ala., on a 1st-class rate of 18 cts. per cwt. on coffee, 24 cts. on sugar and molasses. The rates from New Orleans to Atlanta is on coffee 31, sugar 31, and molasses 36 cts. per cwt. The rate to West Point from New Orleans is, on coffee, 55 cts.; sugar and molasses, 46 cts. per cwt. Opelika has had a "special" rate to West Point, so that she could sell her goods to West Point merchants, which was very damaging to them, but since this suit this special rate has been withdrawn. Opelika has a rate on domestic coal from Group No. 1 of ..... per ton, Atlanta, $1.05 per ton, and West Point pays a rate from the same point and the same coal of $1.25 per ton.

L. S. TURNER. [L. S.]

Sworn to and subscribed before me this 13th day of Sept., /97.

[SEAL OF N. P.]

B. H. HILL,
N. P. & Commissioner.

I, B. H. Hill, commissioner, named in the stipulations attached to the interrogatories herein, do certify that I called before me said
127 witnesses, to wit, S. T. Whitaker, Jas. J. Baker, Zach. Hagedorn, and L. S. Turner, and after having duly sworn them to speak the truth, the whole truth, and nothing but the truth, took down their answers to said interrogatories, and that the foregoing pages contain a

full, true, and correct report of the testimony given by each of said witnesses.

This the 13th day of September, 1897.

B. H. HILL, *Commissioner.*

[Indorsed on envelope:] To O. C. Fuller, clerk of the circuit court of the United States for the northern district of Georgia, Atlanta, Ga. Recd. of B. H. Hill, commissioner. M. P. Dixon, P. M., Atlanta, Ga. Received by due course of mails, this 14 day of Sep., 1897. Amos Fox, P. M. Received from the hands of the postmaster at Atlanta, Ga., and filed this 14 day of Sept., 1897. O. C. Fuller, clerk.

Interrogatories to Jesse M. Smith.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE Atlanta & West Point Railroad Company, et al. } In equity, No. 526.

Interrogatories in the above entitled cause, on behalf the complainant therein, to be exhibited to Jesse M. Smith, Washington, D. C.

Interrogatory No. 1. What is your name, residence, and occupation?

Interrogatory No. 2. If you say you are auditor of the Interstate Commerce Commission, state how long you have occupied that position, and what, if any, was your previous position with the Commission, and how long you occupied that.

Interrogatory No. 3. In what business were you engaged before
128 entering into the service of the Commission? How long were you so engaged, and in what part of the country?

Interrogatory No. 4. Are schedules of rates, fares, and charges applying on interstate traffic required to be filed by carriers with the Interstate Commerce Commission? Are they not filed in the office of the auditor of the Commission, and is it not one of your duties as auditor to examine such tariffs?

Interrogatory No. 5. From your examination of such schedules of rates, fares, and charges, in what section of the United States does the practice of making the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, prevail to the greatest extent?

Interrogatory No. 6. If you say that this practice prevails to the greatest extent in the territory east of the Mississippi River and south of the Ohio and Potomac rivers, state whether or not it is the rule in that territory in cases of transportation from points outside that territory through shorter distance local points to longer distance competitive points in that territory.

Interrogatory No. 7. How long has this practice existed in that territory? Was it or not in existence in the year 1887, when the act to regulate commerce became a law, and prior thereto?

Interrogatory No. 8. Does this practice exist to any considerable extent in Eastern or trunk-line territory?

Interrogatory No. 9. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in the territory east of the Mississippi River and south of the Ohio and Potomac rivers, except in cases of competition in transportation to the longer distant point? In other words, so far as your personal knowledge extends, has not competition in transportation been the sole ground or excuse for such greater charge?

129 Interrogatory No. 10. Under what classification are the rates from New York and other Eastern cities to Atlanta, Newnan, Grantville, Hogansville, Lagrange, West Point, and Opelika made? What is the minimum carload weight prescribed in that classification?

Interrogatory No. 11. Give a tabular statement showing the class rates that were in force in 1892, and that are now in force from New York and Boston to Newnan, Grantville, Hogansville, Lagrange, and West Point, and to Opelika and Atlanta, and showing the excess of the rates to Newnan, Grantsville, Hogansville, Lagrange, and West Point, on each class, over the rates to Opelika and Atlanta.

Interrogatory No. 12. Give a tabular statement showing the excess of the class rates to Newnan, Grantville, Hogansville, Lagrange, and West Point over the class rates to Opelika and Atlanta per minimum carload.

Interrogatory No. 13. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for Complainant.

Cross-examination:

Cross-examination waived.

ED. BAXTER,
Counsel for Defendants.

Stipulation as to depositions of Jesse M. Smith.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company, et al. } In equity, No. 526.

130 In the above entitled cause it is stipulated and agreed by counsel for the complainant and by counsel for the defendants that the deposition of the following-named witness for the complainant, to wit, Jesse M. Smith, of Washington, D. C., may be taken on the foregoing and annexed direct and cross interrogatories, and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency. All formal objections are waived. It is further stipulated and agreed that Eugene L. Gaddess, of Washington, D. C.,

may act as commissioner in taking said deposition. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

ED. BAXTER,
Counsel for the Defendants.

Filed in clerk's office 27 day of Aug., 1897. O. C. Fuller, clerk, by J. D. Steward, deputy.

Answers of Jesse M. Smith.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company, et al. } In equity, No. 526.

Depositions of Jesse M. Smith, a witness for the complainant in the above entitled cause.

The said witness, Jesse M. Smith, having been duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

Answer to interrogatory No. 1. My name is Jesse M. Smith, Washington, D. C., and I am auditor of the Interstate Commerce Commission.

Answer to interrogatory No. 2. I have occupied that position since July 1, 1895; from January 1, 1888, to July 1, 1895, I was assistant auditor of the Commission.

Answer to interrogatory No. 3. I was engaged in railroad work
131 for about fourteen years prior to entering the service of the Commission, most of the time in the general freight department of the Louisville & Nashville Railroad, at Louisville, Ky., and Montgomery, Ala.

Answer to interrogatory No. 4: Common carriers are required to file with the Commission all schedules of rates, fares and charges applying on interstate traffic. All of such schedules are placed on file in the office of the auditor of the Commission, and it is one of the duties of the auditor, with the assistance of the clerical force in his charge, to examine, as far as practicable all schedules of rates, fares, and charges filed in compliance with section six of the act to regulate commerce, for the purpose of determining whether such schedules are in accordance with the requirements of the law and the orders of the Commission.

Answer to interrogatory No. 5: From the large number of tariffs examined since the beginning of my service with the Commission, applying in all sections of the country, I am of the opinion that the practice of making the greater charge for the shorter than for the longer haul, over the same line in the same direction, the shorter being included in the longer, prevails to the greatest extent in the territory east of the Mississippi River and south of the Ohio and Potomac rivers.

Answer to interrogatory No. 6: I am of the opinion that the practice referred to prevails as a rule in cases of transportation from points outside that territory through shorter distance local points to longer competitive points in that territory, though there are no doubt some exceptions.

Answer to interrogatory No. 7: To the best of my recollection this practice has existed in that territory to a greater or less extent since the beginning of my railroad service. It was in existence in the year 1887 and, as above indicated, prior thereto.

Answer to interrogatory No. 8: This practice does not prevail to any considerable extent in the territory east of the Mississippi River and north of the Ohio and Potomac rivers.

Answer to interrogatory No. 9: I have no personal knowledge
132 of any case where the greater charge for the shorter than for the longer haul, over the same line in the same direction, the shorter being included in the longer, has been made in the territory described, except in cases where competition in transportation existed at the longer distance point. I believe the lower charge to the longer distance point has, in practically all cases, been made on the ground of competition in transportation to such longer distance point, either direct competition in transportation from and to the same points, or competition with carriers operating from other markets to same point of destination.

Answer to interrogatory No. 10: The rates from New York and other eastern cities to Atlanta, Newnan, Grantville, Hogansville, La Grange, West Point, Ga., and Opelika, Ala., are subject to the Southern freight classification. This classification provides that unless otherwise specified in the classification the minimum carload weight of all articles loaded in cars 36 feet in length or less, shall be 24,000 pounds, or twelve tons when the rate applies per net or gross ton. For cars over 36 feet in length the minimum carload weights are provided in proportion to length of the car. Special minimum carload weights are provided in the classification for quite a large number of articles, the lowest being 10,000 pounds.

Answer to interrogatory No. 11: The class rates from New York and Boston to Newnan, Grantville, Hogansville, La Grange and West Point, Ga., also to Opelika, Ala., and Atlanta, Ga., which were in force in 1892 and at the present time, are shown in the following table:
133 (Ans. to Int. No. 11.)

Class rates from New York, N. Y., and Boston, Mass., to points named below.

[In cents per hundred pounds.]

	Classes.												Per bbl.
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	F.
Newnan, Ga.:													
1892	131	111	98	83	69	56	....	....	....	....	....	78	....
1897	131	111	98	83	69	56	46	55	43	40	67	78	82
Grantville, Ga.:													
1892	147	128	114	97	80	64	....	....	....	....	....	94	....
1897	147	126	112	94	79	63	50	62	48½	45	77	89	93½
Hogansville, Ga.:													
1892	151	131	116	100	81	65	....	....	....	....	....	97	....
1897	150	131	116	98	81	64	51	63	49	46	79	33	96
La Grange, Ga.:													
1892	154	135	118	102	82	66	....	....	....	....	....	99	....
1897	154	135	118	102	82	66	53	65	47	45	80	97	91
West Point, Ga.:													
1892	142	124	110	93	77	62	....	....	....	....	....	88	....
1897	142	124	110	93	77	62	49	63	51	49	76	88	100
Opelika, Ala.:													
1892	114	98	86	73	60	49	36	48	40	39	58	68	78
1897	114	98	86	73	60	49	36	48	40	39	58	68	78
Atlanta, Ga.:													
1892	114	98	86	73	60	49	36	48	40	39	58	68	78
1897	114	98	86	73	60	49	36	48	40	39	53	68	78

(Ans. to Int. No. 11.)

The rates to Newnan, Grantville, Hogansville, La Grange, and West Point, Ga., are higher than the rates to Atlanta, Ga., and Opelika, Ala., as shown in the following table, the rates to Atlanta, and to Opelika being the same, viz:

134 [In cents per hundred pounds.]

	Classes.											
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	F.
Newnan, Ga	17	13	12	10	9	7	10	7	3	1	9	10	4
Grantville	33	28	26	21	19	14	14	14	8½	6	19	21	15½
Hogansville	36	33	30	25	21	15	15	15	9	7	21	25	18
La Grange	40	36	32	29	22	17	17	17	7	6	22	29	13
West Point	28	26	24	20	17	13	13	15	11	10	18	20	22

The excess of the rates on the first six classes to Newnan, Grantville, Hogansville, La Grange, and West Point over the rates on same classes to Atlanta, Ga., and Opelika, Ala., in dollars and cents per carload of 24,000 pounds, is shown in the following table:

	Classes.					
	1.	2.	3.	4.	5.	6.
Newnan	$40.80	$31.20	$28.80	$24.00	$21.60	$16.80
Grantville	79.20	67.20	62.40	50.40	45.60	33.60
Hogansville	86.40	79.20	72.00	60.00	50.40	36.00
La Grange	96.00	86.40	76.80	69.60	52.80	40.80
West Point	67.20	62.40	57.60	48.00	40.80	31.20

Answer to interrogatory No. 13. I know of nothing further that may be of benefit or advantage to the parties at issue in this cause, or either of them, or that is material to the subject of this examination.

JESSE M. SMITH.

I, Eugene L. Gaddess, of Washington, D. C., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness, Jesse M. Smith, and after having duly sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories, and that the fore-
135 going pages contain a full, true, and correct report of the testimony given by said witness. This the 26th day of August, 1897.

EUGENE L. GADDESS,
Commissioner.

[Endorsed on envelope:] To O. C. Fuller, esq., clerk of U. S. circuit court for the northern district of Georgia, Atlanta, Ga. Registered August 26, 1897, Washington, D. C., Station C, No. 2088. Atlanta, Ga. Received by due course of mails this 28' day of Aug., 1897. Amos Fox, P. M. Received this package from the hands of Amos Fox, P. M., at Atlanta, Ga., and filed Aug. 28, 1897. O. C. Fuller, clerk, by Geo. S. Barnard, deputy clerk.

Interrogatories to Allen Fort.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company et al. } In equity, No. 526.

Interrogatories in the above-entitled cause on behalf of the complainant therein to be exhibited to Allen Fort:

Interrogatory No. 1. What is your name and residence and what position, if any, do you hold under the State of Georgia?

Interrogatory No. 2. How long have you held such position? Have your duties as a member of the railroad commission of Georgia required you to study and made you familiar with the railroad situation in that State? Had your attention been called to the transportation question prior to your becoming a member of the Georgia Railroad Commission; and if so, how and for how long a time?

136 Interrogatory No. 3. Were the rates in force in 1892, and now in force from Atlanta, Ga., to the following stations on the Atlanta & West Point Railroad between Atlanta and Opelika, Ala., to wit: Newnan, Grantville, Hogansville, La Grange, and West Point, established by the railroad commission of Georgia? Were the rates from Opelika, Ala., in force to those stations established by the railroad commission of Georgia?

Interrogatory No. 4. Name the rates in force in 1892 and now in force from Atlanta, Georgia, to those stations. Name the rates in force in 1892 and now in force from Opelika, Ala., to those stations.

Interrogatory No. 5. In establishing the rates named in the preceding interrogatory did the railroad commission of Georgia take into consideration the fact that the expense to the carrier of the service of carriage on local hauls in less than carload lots is greater per ton per mile than on long through hauls?

Interrogatory No. 6. Has the railroad commission of Georgia any authority or does it attempt to exercise any authority in establishing the through rates on interstate commerce or any proportions of such rates?

Interrogatory No. 7. Is it your opinion that the prosperity of a road is promoted more by a system of rates which builds up business at local stations along its entire line, or by a system which discriminates against such local stations and tends to build up business at widely separated trade centers alone?

Interrogatory No. 8. Have the effects of the former or latter system of rate making, referred to in the preceding interrogatory, come under your observation on any roads in the State of Georgia or elsewhere? And if so, state fully what those effects were.

Interrogatory No. 9. The geographical positions of Newnan, Grantville, Hogansville, La Grange, and West Point, and the character of the territory by which they are surrounded, such that they are capable
137 of no further growth? What effect, if any, would the reduction of the rates from New York and other Eastern cities to those

points so as to make their rates not higher than the rates to Opelika and Atlanta have on the prosperity and growth of those points?

Inter'ogatory No. 10. With a reduction in the rates on all classes of goods from New York and other Eastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point, so as to make their rates not higher than the rates for the haul through those points to Opelika, in your opinion, increase or diminish the tonnage or traffic which will be hauled by the roads to Newnan, Grantville, Hogansville, La Grange, and West Point?

Interrogatory No. 11. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and in inducing the investment of capital there and in promoting the prosperity of such locality in other respects?

Interrogatory No. 12. What effect, if any, do relatively high rates to a locality, or rates which discriminate against a locality, have on its prosperity or progress in the respects named in the preceding interrogatory?

Interrogatory No. 13. State whether or not Atlanta and Opelika merchants compete for business or sell goods in the territory adjacent to and surrounding Newnan, Grantville, La Grange, and West Point.

Interrogatory No. 14. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for the Complainant.

Cross-examination:
Cross-examination waived.

ED. BAXTER,
Counsel for Defendants.

138 *Stipulation as to deposition of Allen Fort.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & WEST POINT RAILROAD COMPANY et al.
In equity, No. 526.

In the above-entitled cause it is stipulated and agreed by counsel for the complainant and by counsel for the defendants that the deposition of the following-named witness for the complainant, to wit, Allen Fort, of Atlanta, Ga., may be taken on the foregoing and annexed direct and cross-interrogatories, and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency. All formal objections are waived. It is further stipulated and agreed that J. D. Massey, of Atlanta, Ga., may act as commissioner in taking said deposi-

tion. The issuance of commission to him and formal caption and certificate by him are waived.

ED. BAXTER,
Counsel for Defendants.
L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

Filing: Filed in clerk's office 27' day of Aug., 1897. O. C. Fuller, clerk, by J. D. Steward, deputy.

Answers of Allen Fort.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & WEST POINT RAILROAD COMPANY et al. } In equity, No. 526.

The witness, Allen Fort, having been first by me duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

139 To interrogatory No. 1 witness, answering, says: That his name is Allen Fort; his residence at Americus, Georgia; that he is one of the railroad commissioners of Georgia; that he has held said position for about six years.

To interrogatory No. 2, witness answering says: That he has been railroad commissioner of Georgia since October 15th, 1891; that his duties as such railroad commissioner require him to study and become familiar with the railroad situation in Georgia; that prior to his accession to the commission he had given considerable thought to the transportation question; that as a member of the Georgia legislature during the years 1877, 1878, 1879, and 1880, it became his duty to investigate the subject in order that he might intelligently vote on pending legislation organizing the railroad commission of Georgia, and otherwise affecting railroad transportation in Georgia.

To interrogatory No. 3, witness answering says: The authorized rates in force in 1892, and rates now in force from Atlanta to Newnan, Grantville, Hogansville, La Grange, and West Point, stations on the Atlanta & West Point Railroad, were established by this commission; that the rates from Opelika, Ala., were not.

To interrogatory No. 4, witness answering says: That the authorized rates in force in 1892, and rates now in force from Atlanta to those stations, may be found on pages 114, 115, and 132 of the twentieth report of the railroad commission, copy of which is made a part of this answer. As to rates from Opelika, that city not being in Georgia, this commission has no control over rates from that point.

To interrogatory No. 5, witness answering says: They did.

To interrogatory No. 6, witness answering says: They did not and do not.

To interrogatory No. 7, witness answering says: In my opinion the prosperity of the roads is greatly promoted by a system of rates which

build up business at local stations along their entire lines, and that their prosperity is greatly injured by a system which discriminates against local stations, and tends to build up business at widely separated "trade centers" alone. At the local stations, where the roads get the entire business by granting just rates, they would increase their tonnage from these stations, thereby securing an improved permanent business, not
140 competitive. Such a course would foster friendly relations between the people and the roads, and in a number of ways benefit the roads and promote their prosperity.

To interrogatory No. 8, witness answering says: I have observed the effects of rate-making systems which build up business at local stations, and have found that the roads so doing were uniformly more prosperous and their business more reliable; while on the other hand, roads pursuing the opposite policy of discriminating against their noncompetitive stations have not been prosperous. This kind of oppression has promoted the construction of competing lines, often where the legitimate business did not warrant it.

To interrogatory No. 9, witness answering says: The geographical positions of Newnan, Grantville, Hogansville, La Grange, and West Point, and the territory by which they are surrounded, are such that they are capable of further growth; and if rates from New York and other Eastern cities were not higher to those points than rates to Atlanta and Opelika from New York and other Eastern cities, in my opinion their prosperity and growth would be promoted.

To interrogatory No. 10, witness answering says: In my opinion a reduction in rates from New York and other Eastern cities to those stations, so as to make said rates not higher than rates charged for the haul through those points to Opelika, would increase the tonnage of traffic hauled by the roads to those points.

To interrogatory No. 11, witness answering says: Relatively low and preferential rates to a particular locality, if such rates are stable, would tend to increase the population of such locality and induce the investment of capital there, and would promote the prosperity of such locality. It would promote manufacturing, cause jobbing houses to be established, and increase the trade of such locality by extending its territory.

To interrogatory No. 12, witness answering says: Relatively high rates to a locality which discriminates against it would have the opposite effect from that stated in the foregoing answer. The margin of profit is so small now in commercial transactions that a discriminating rate against a locality makes manufacturing and jobbing unprofitable; and a locality so discriminated against can not hold the trade in its own legiti-
141 mate territory; but more favored localities secure the trade, and are built up at the expense of the less favored.

To interrogatory No. 13, witness answering says: I presume that Atlanta and Opelika merchants do compete for business and sell goods in the territory adjacent to and surrounding said stations; to what extent I am unable to say.

To interrogatory No. 14, witness answering says: Nothing else of benefit to the parties at issue in this case, or either of them, material to the subject-matter of this examination, occurs to me at this time.

ALLEN FORT, *Deponent.*

I, J. D. Massey, of Atlanta, Georgia, the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness, to wit, Allen Fort, and after having first sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories, and that the foregoing pages contain a full, true, and correct report of the testimony given by said witness. I do certify further that the Twentieth Report of the Railroad Commission of Georgia herein inclosed is the same referred to by witness aforesaid, and by him made a part of his answer, as therein set out.

This 29th day of September, 1897.

J. D. MASSEY, *Commissioner.*

(Endorsed on envelope:) To the clerk of the circuit court of the United States for the fifth circuit for the northern district of Georgia, Atlanta, Ga. Received of J. D. Massey, com'r, this package this 30 day of September, 1897. O. C. Fuller, clerk.

162 [Extracts from 20th Report Railroad Commission of Georgia.]

Standard freight tariff—Classes.

Distance.	Per 100 pounds.											Per bbl..	Per 100 lbs..	Per 100 lbs..
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	F.	G.	H.
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
5	12	11	10	8	7	6	6	6	4½	3½	7	9	2½	8
10	16	14	13	10	9	8	8	8	5½	5	9	11½	3½	10
15	18	16	15	12	11	9	9	9	6	5½	11	12½	3½	12
20	20	18	16	14	12	10	10	10	7	6	12	14	5	14
25	22	20	18	16	13	11	11	11	7½	6½	13	15	5½	16
30	24	21	19	17	14	11	11	11	7½	6½	14	15	6	17
35	26	23	21	19	15	12	12	12	8	7½	15	16½	6½	19
40	27	24	22	20	16	12	12	12	8	7½	16	16½	6½	20
45	29	26	24	21	17	13	13	13	8½	8	17	17½	6½	21
50	30	27	25	22	18	13	13	13	8½	8	18	17½	7	22
55	32	29	26	23	19	14	14	14	9	8½	19	18	7	23
60	33	30	27	24	19	14	14	14	9	8½	19	18	7½	24
65	35	32	28	25	20	15	15	15	9½	9	20	19	7½	25
70	36	33	29	26	20	15	15	15	9½	9	20	19	7½	26
75	38	35	30	27	21	16	16	16	10	9½	21	20	7½	27
80	39	36	31	28	21	16	16	16	10	9½	21	20	7½	28
85	41	37	32	29	22	17	17	17	11	10	22	21½	7½	29
90	42	38	33	29	22	17	17	17	11	10	22	21½	8	29
95	44	39	34	30	23	18	18	18	11½	11	23	23	8	30
100	45	40	35	30	23	18	18	18	11½	11	23	23	8½	30
110	48	42	37	31	24	19	19	19	12	11	24	23	8½	31
120	51	44	39	32	25	20	20	20	13	12	25	24	8½	32
130	54	46	41	33	26	21	21	21	13	12	26	25	8½	33
140	57	48	43	34	27	22	22	22	13	13	27	26	9	34
150	60	50	45	35	28	23	23	23	14	13	28	28	9	35
160	62	52	46	36	29	24	24	24	14	13	29	29	9½	36
170	64	54	47	37	30	25	25	25	15	14	30	31	9½	37
180	66	56	48	38	31	26	26	26	15	14	31	31	9½	38
190	68	58	49	39	32	27	27	27	16	15	32	33	9½	39

143 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—Classes—Continued.

Distance.	Per 100 pounds.											Per bbl.	Per 100 lbs.	Per 100 lbs.
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	F.	G.	H.
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
200	**70**	**60**	**50**	**40**	**32**	**27**	**27**	**27**	**16**	**15½**	**32**	**33**	**9½**	**60**
210	71	62	51	41	33	28	28	28	17	16	33	34	9½	61
220	72	64	52	42	33	28	28	28	17	16	33	34	10	62
230	73	66	53	43	34	29	29	29	18	17	34	36	10½	63
240	74	68	54	44	34	29	29	29	18	17	34	36	10½	64
250	**75**	**70**	**55**	**45**	**35**	**30**	**30**	**30**	**19**	**18**	**35**	**38**	**10½**	**65**
260	76	71	56	46	35	30	30	30	19	18	35	38	10½	66
270	77	71	56	46	36	31	31	31	20	19	36	40	10½	66
280	78	72	57	47	36	32	32	32	20	19	36	40	10½	67
290	79	72	57	47	37	32	32	32	21	19	37	42	10½	67
300	**80**	**73**	**58**	**48**	**38**	**33**	**33**	**33**	**21**	**19**	**38**	**42**	**11**	**68**
310	81	73	58	48	38	33	33	33	21	19	38	42	11	68
320	82	74	59	49	39	34	34	34	21	20	39	42	11	69
330	83	74	59	49	39	34	34	34	22	20	39	44	11	69
340	84	74	59	49	39	34	34	34	22	20	39	44	11	69
350	**85**	**75**	**60**	**50**	**40**	**35**	**35**	**35**	**23**	**21**	**40**	**46**	**11**	**70**
360	85	75	60	50	40	35	35	35	23	21	40	46	11½	70
370	85	75	60	50	40	35	35	35	23	21	40	46	11½	70
380	88	76	61	51	41	36	36	36	25	23	41	50	11½	72
390	88	76	61	51	41	36	36	36	25	23	41	50	11½	72
400	**88**	**76**	**61**	**51**	**41**	**36**	**36**	**36**	**25**	**23**	**41**	**50**	**11½**	**72**
410	91	77	62	52	42	37	37	37	26	24	42	52	11½	74
420	91	77	62	52	42	37	37	37	26	24	42	52	11½	74
430	91	77	62	52	42	37	37	37	26	24	43	52	11½	74
440	94	78	63	53	43	38	38	38	27	25	43	54	11½	76
450	**94**	**78**	**63**	**53**	**43**	**38**	**38**	**38**	**27**	**25**	**43**	**54**	**11½**	**76**
460	94	78	63	53	43	38	38	38	27	25	43	54	12	76

144 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—Classes.

Distance.	Per 100 lbs.		Per ton.		Per carload.			Per 100 lbs.
	J.	K.	L.	M.	N.	O.	P.	R.
Miles.	*Cts.*	*Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*Cts.*
5	8	4	.35	.55	5.00	5.50	4.00	4
10	10	5	.50	.80	6.50	8.00	5.00	5
15	12	5½	.55	.85	7.50	9.00	6.00	5½
20	13	6	.60	.90	8.00	10.00	7.00	6
25	14	6½	.65	.95	9.00	11.00	8.00	6½
30	15	7	.70	1.00	10.00	11.00	8.00	7
35	16	7½	.75	1.05	12.00	12.00	9.00	7½
40	17	8	.80	1.10	13.00	12.00	9.00	8
45	18	8	.85	1.15	14.00	13.00	10.00	8½
50	**19**	**8**	**.90**	**1.20**	**14.00**	**13.00**	**10.00**	**9**
55	20	8	.95	1.25	14.00	14.00	10.00	9
60	21	9	.95	1.30	14.50	14.00	11.00	10
65	22	9	1.00	1.35	15.50	15.00	11.00	10
70	22	9	1.00	1.40	16.00	15.00	11.00	11
75	23	9½	1.05	1.45	16.50	16.00	12.00	11
80	23	9½	1.10	1.50	17.00	16.00	12.00	12
85	24	9½	1.15	1.55	17.50	17.00	13.00	12
90	24	9½	1.15	1.60	18.00	17.00	13.00	13
95	25	10	1.20	1.65	19.00	17.00	14.00	14
100	**25**	**10**	**1.20**	**1.70**	**20.00**	**17.00**	**14.00**	**14**
110	26	10	1.25	1.80	21.00	18.00	14.00	15
120	27	10½	1.30	1.90	23.00	18.00	15.00	16
130	28	10½	1.35	2.00	24.00	19.00	16.00	17
140	29	11	1.40	2.10	25.00	19.00	16.00	18
150	**30**	**11**	**1.50**	**2.20**	**26.00**	**20.00**	**17.00**	**18**
160	31	12	1.60	2.25	27.00	20.00	17.00	19
170	32	12	1.70	2.30	28.00	21.00	18.00	19
180	33	12	1.80	2.35	29.00	21.00	19.00	20
190	34	13	1.90	2.40	29.50	22.00	19.00	20
200	**35**	**13**	**2.00**	**2.45**	**30.00**	**22.00**	**20.00**	**20**
210	36	13	2.10	2.50	31.00	23.00	20.00	21
220	37	14	2.20	2.55	31.50	23.00	21.00	21
230	38	14	2.30	2.65	32.00	23.00	21.00	21
240	39	14	2.40	2.65	33.00	24.00	22.00	22
250	**40**	**15**	**2.50**	**2.75**	**33.50**	**24.00**	**22.00**	**22**
260	41	15	2.60	2.75	34.00	24.00	22.00	22
270	42	15	2.70	2.85	34.50	25.00	23.00	22
280	43	16	2.80	2.85	35.00	25.00	23.00	23
290	44	16	2.90	2.95	36.00	25.00	24.00	23
300	**45**	**16**	**2.95**	**3.00**	**36.50**	**26.00**	**24.00**	**23**
310	46	17	3.05	3.10	37.00	26.00	24.00	23
320	47	17	3.05	3.20	38.00	26.00	24.00	24
330	48	17	3.15	3.30	38.50	27.00	25.00	24
340	49	17	3.15	3.40	39.00	27.00	25.00	24
350	**50**	**17**	**3.28**	**3.50**	**40.00**	**27.00**	**25.00**	**24**
360	51	17	3.28	3.50	40.00	27.00	25.00	24
370	52	17	3.28	3.50	40.00	27.00	25.00	24
380	53	18	3.41	3.60	41.00	29.00	27.00	26
390	54	18	3.41	3.60	42.00	29.00	27.00	26
400	**55**	**18**	**3.41**	**3.60**	**42.00**	**29.00**	**27.00**	**26**

145 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—Classes—Continued.

Distance.	Per 100 lbs.		Per ton.		Per carload.			Per 100 lbs.
	J.	K.	L.	M.	N.	O.	P.	R.
Miles.	*Cts.*	*Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*Cts.*
410	**56**	**19**	**3.54**	**3.70**	44.00	31.00	29.00	**28**
420	57	19	3.54	3.70	44.00	31.00	29.00	**28**
430	58	19	3.54	3.70	44.00	31.00	29.00	**28**
440	59	20	3.67	3.80	46.00	33.00	31.00	30
450	**59**	**20**	**3.67**	**3.80**	**46.00**	**33.00**	**31.00**	**30**
460	60	20	3.67	3.80	46.00	33.00	31.00	30

[Extracts from 20th Report Railroad Commission of Georgia—Continued.]

ATLANTA & WEST POINT R. R.

Passenger, Class A (three cents per mile).
Freight: To classes 1, 2, 3, 4, 5, 6, A, B, E, G, H, K, L, M, X, O, and R add ten (10) per cent to commissioners' standard tariff.
To Classes C, D, F, J, and P apply the commissioners' standard tariff.
Rosin, Class K, less twenty (20) per cent.

Distance table.

ATLANTA	0
East Point	6
Red Oak	12
Fairburn	18
Palmetto	25
Powells	33
NEWNAN	39
Pucketts	45
Grantville	51
Hogansville	58
Whitfield	65
La Grange	71
Gabbettville	80
WEST POINT	87

146 AUGUSTA, GIBSON & SANDERSVILLE R. R.

Passenger, Class A (three cents per mile).
Freight: Lumber, Class P. Cotton, Class J.
Add twenty-five (25) per cent to all other classes, except C, D, and F.

Distance table.

Augusta	0
Gary	5
Adventure	7
Gracewood	9
Richmond	11
Hephzibah	15
Bath	19
Blythe	22
Keysville	26
Noah	30
Mathews	32
Wrenns	36
Stapleton	41
Avera	45
Gibson	51
Melle Springs	55
Mitchell	59
Hines	61
Chalker	64
Warthen	70
Young	77
SANDERSVILLE	80

147 In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *versus* THE CLYDE STEAMSHIP COMPANY AND THE Atlanta & West Point Railroad et al. } In equity, No. 526. At Atlanta.

Frank Lyon, stenographer, 1317 F st., NW., Washington, D. C.

Received by express Aug. 9, 1897, and filed. O. C. Fuller, clerk.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *vs.* THE CLYDE STEAMSHIP COMPANY AND THE Atlanta & West Point Railroad Company et al. } In equity, at Atlanta, Ga., No. 526.

In this case it is stipulated and agreed by counsel for complainant and counsel for defendants, that Frank Lyon, stenographer, shall act as special examiner, with all the powers of such, to take the depositions of such witnesses in this case as may be produced before him by the defendants.

It is further stipulated and agreed that he shall take the testimony of such witnesses in shorthand and afterwards reduce the same to typewriting, and certify that his report of the testimony is full, true, and correct. The signatures of the witnesses to their testimony, and all formal caption and certificate are expressly waived.

June 22nd, 1897.

L. A. SHAVER,
Counsel for Complainant.

ED. BAXTER,
Counsel for Defendants.

	Di.	C.	Re-d.	Re-c.	Re-re-d.	Re-re-c.
Biles, G. P	178	186	199	200	201	.....
Brown, J. M	100	106	.....	.....	.....	.....
Culp, J. M	1	8	24	.....	.....	.....
Compton, C. B	66	82	99	.....	.....	.....
Hunter, T. J	160	167	176	.....	.....	.....
Knox, G. R	136	146	138	.....	.....	.....
Lutz, R. E	114	125	.....	.....	.....	.....
Van den Burg, Y	26	38	57	61	64	64

EXHIBITS.

Exhibit No. 1. Offered by J. M. Culp, page 25. Articles of association of the Southeastern Freight Association.

Exhibit No. 2. Offered by Y. van den Burg, p. 60. State of freight transported by Clyde Line into Charleston from May 20th to June 20th, 1897.

Exhibit No. 3. Offered by R. E. Lutz, p. 115. Pages 64, 65, 66, and 67, 99, and 126, 127; 128, 129, and 130 of the report of the railroad commission of Georgia from October 15th, 1894, to October 15th, 1895.

Case No. 37.

FORT MONROE, VA., *June 24, 1897.*

J. M. CULP, a witness on behalf of the defendant, having been duly sworn, testified as follows:

By Mr. BAXTER:

1. State your name, age, residence, and occupation.

A. J. M. Culp; 48 years; Washington, D. C.; traffic manager, Southern Railway.

2. Q. How long have you been connected with the freight traffic of the United States?

A. Upwards of 26 years.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., to Newnan, Grantville, Hogansville, Lagrange, and West Point more than to Opelika.

149 The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, West Point, and Opelika, were in November, 1892, as follows:

[Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	78	....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	84	....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	87	....
Lagrange, Ga	154	135	118	102	82	66	....	....	....	....	....	99	....
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	88	....
Opelika, Ala	114	98	86	73	60	49	36	48	40	39	58	68	78

State what in your opinion would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, Lagrange, and West Point so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express?

A. It would not in my opinion increase the traffic shipped over the roads at all. It would reduce the gross revenue of the roads, and consequently the net revenue. It might distribute the business between these different stations themselves and between these stations and Opelika differently, but there would be no increase of business. No more merchandise or any other class of business would be shipped from New York and other points by the reduction.

4. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight from New York, Philadelphia, etc., to Opelika, Ala.?

A. The following are some of the principal lines or routes which actually and actively competed in 1892, and now compete from New York, Philadelphia, etc., to Opelika, Ala., for freight traffic of the classes named:

The Pennsylvania Railroad, the Baltimore & Ohio Railroad, the Philadelphia & Reading Railroad, and other lines, via all rail
150 routes through Hagerstown, Shennandoah Junction, Strasburg Junction, Alexandria, Richmond, and Portsmouth, Virginia, in connection with lines operating south of those junctions, the Southern Railway, the Norfolk & Western Railroad, the Seaboard Air Line, the Atlantic Coast Line, the Cape Fear & Yadkin Valley Railroad.

In addition to these all-rail routes there are thoroughly equipped and well-managed steamship routes operating through the South Atlantic ports. The Merchants & Miners Transportation Company from Boston via the Chesapeake ports from Baltimore via Savannah.

The Ocean Steamship Company from Boston, New York, and Philadelphia via Savannah.

The New York & Texas Steamship Company (Mallory Line) from New York via Brunswick, Georgia.

The Clyde Steamship Line from New York and Boston via Charleston, South Carolina, and from Philadelphia via Chesapeake ports.

The Old Dominion Steamship Company from New York via the Chesapeake ports.

The Baltimore Steam Packet Company (Bay Line) and the Baltimore, Chesapeake & Richmond Steamboat Company (York River Line) from Baltimore, Maryland, via the Chesapeake ports.

These various steamship lines have their rail connections at the several Chesapeake ports or the South Atlantic ports leading to Opelika. I have not enumerated all the links from these ports—all the links in the line.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from cities other than New York, Philadelphia, and Eastern points.

A. It is a difficult matter for me to name all of the transportation lines that compete from all points to Opelika, but I will endeavor to enumerate the principal ones.

First, from the western section of the country, lines operating from the various Ohio and Mississippi crossings, such as:

The Cincinnati, New Orleans and Texas Pacific Railway.
The Baltimore & Ohio Southwestern Railway.
The Louisville & Nashville Railroad.
The Southern Railway in Kentucky.
The Illinois Central Railroad (Louisville division).
The Ohio Valley Railroad.
The Nashville, Chattanooga, St. Louis Railway.
The Illinois Central Railroad (main line).
151 The Mobile & Ohio Railroad.
The Memphis & Charleston Railroad.
Kansas City, Memphis & Birmingham Railroad.
The Alabama & Vicksburg Railroad.
The New Orleans & Northeastern Railroad.

The Louisville & Nashville Railroad, the Nashville, Chattanooga & St. Louis Railway, and the Illinois Central Railroad have routes from two or more of the crossings referred to.

The lines named connect at the Ohio and Mississippi river crossings referred to, with lines operating beyond the Ohio and Mississippi rivers, and reaching the entire Northern, Northwestern, and Western sections of the United States.

Second, from the northeastern section of the country, including Eastern seaboard cities, in addition to some of the lines enumerated in the first paragraph.

The Pennsylvania Railroad.

The Baltimore & Ohio Railroad.

The Philadelphia & Reading Railroad, and other lines operating via all-rail routes through Hagerstown, Shenandoah Junction, Strasburg Junction, Alexandria, Richmond, and Portsmouth, Va., in connection with lines operating south of those junctions, namely:

The Southern Railway.

The Norfolk & Western Railway.

The Seaboard Air Line.

The Atlantic Coast Line, and

The Cape Fear and Yadkin Valley Railroad.

In addition to these there is competition with thoroughly and well managed steamship routes operating through south Atlantic ports, such as—

The Merchants and Miners' Transportation Company, operating from Boston via the Chesapeake ports, and from Baltimore via Savannah, Ga.

The Ocean Steamship Company, operating from Boston, New York, and Philadelphia via Savannah, Ga.

The New York & Texas Steamship Company (Mallory Line), operating from New York via Brunswick, Ga.

The Clyde Steamship Company, operating from New York and Boston via Charleston, S. C., and from Philadelphia via the Chesapeake ports.

The Old Dominion Steamship Company, operating from New York City via the Chesapeake ports; and

The Baltimore Steam Packet Company (Bay line), and the Bal-
152 timore, Chesapeake & Richmond Steamboat Company (York River line), operating from Baltimore, Md., via the Chesapeake ports.

These various steamship lines, by rail connections at the several Chesapeake ports or the South Atlantic ports, have for years competed and still actively compete for traffic from the entire Eastern seaboard to Opelika.

I have not enumerated the links or continuations of these lines.

7. Q. State whether the rates on the above-mentioned classes of freights from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta, to Opelika, are controlled to any, and if so to what, extent by competition.

A. They may be said to be controlled entirely by competition.

8. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta, to Newnan, Grantville, Hogansville, La Grange, and West Point are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. They are not unreasonably high, and therefore are just and reason-

able to the shipper or consignee. The rates are lower than by any other known mode of conveyance. Business is done and has been done under these rates profitably to the shippers. The rates to these points are subject to competition as far as Atlanta and from those points that traffic is charged at no higher than the rates fixed by the Georgia railroad commission. The rates are relatively adjusted with respect to rates to points similarly in other parts of the same section of the country.

9. Q. Can the number of tons carried one mile or the number of tons carried of freight earning revenue or the average receipts per ton per mile or the average cost of carrying one ton one mile either jointly or separately be used as the standard for railroad rate making?

A. It can not and is not.

10. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. It does. Not only does it affect the rate itself, but it likewise affects the circumstances and conditions under which the property may be carried. Competition will require a road to run trains at a higher rate of speed; it will require it frequently to carry cars loaded to a less weight per car; it will require it to take sometimes a part of a carload without waiting to fill up the car; it will require frequently the road to pay
153 a claim the payment of which the railroad company might successfully resist in order to get business, and therefore it does very materially affect the circumstances and conditions under which the property is transport*ated*, in addition to the rate of freight which it affects.

11. Q. State whether there is any such competition at Newnan, Grantville, Hogansville, La Grange, or West Point as there is at Opelika?

A. There is not. There is only the one line terminating at those points, and, so far as the part of the rates from Atlanta for those points is concerned, there is actually no competition.

Cross-examination by Mr. SHAVER:

1. Q. Is the Chattahoochee River navigable to West Point?

A. The boats run to Columbus, Ga., according to my information.

2. Q. Are you positive that no boats run to West Point at any season of the year?

A. My attention has never been called to any.

3. Q. You stated that certain named reductions in the rates over the line involved in this case from New York to Newnan, Hogansville, Grantville, La Grange, and West Point would not increase the tonnage of traffic to those points at all, did you not?

A. I stated that a reduction of the rates to these points would not increase the traffic shipped over the roads. It might increase the tonnage to one point and reduce it to another, but in the aggregate it would not increase it at all. You include Newnan in your question. I did not understand the question in the direct examination to include Newnan. There are two roads at Newnan and two roads at La Grange, but the competition between these roads has not been so fierce and of so controlling force as to reduce the rates to those points as low rates to Opelika.

4. Q. You also stated that such reduction might disturb the business

now enjoyed by Opelika between those intermediate points, West Point, La Grange, etc., I believe?

A. I do not recall having said that. However, it might take some of the traffic shipped to Opelika to other points between Atlanta and Opelika.

5. Q. Would not that be of benefit to West Point, La Grange, and those other intermediate points from a business point of view?

A. If it increased their traffic, it would no doubt be a benefit
154 to them. But it would reduce the revenue of the road. It would make a reduction to these points not necessitated or required by competition. It would take the conditions that exist without any willing action of the railroads at Opelika; it would take that, I say, and transfer it to other points where no such conditions of competition exist. There is competition at Opelika not only from the East, between the lines which I have named and their connections, but there is likewise an adjustment of rates from the West to Opelika lower than to the other points; and the rates from the East are controlled to a large extent by the adjustment of the rates from the West to Opelika. If the rates from the East to these local stations were reduced, then it would in turn force the rates from the West and other sections of the country to these local stations to be reduced. It would arbitrarily create a competition unnecessarily at these local stations.

6. Q. Would not the increase of business resulting from the lowering of rates at West Point, La Grange, and these other intermediate points tend to bring about an increase of population and to induce capital to invest at these points?

A. I do not think that a reduction of the rates from the East to these stations to the basis of the Opelika rates would materially increase the population.

7. Q. Is not the tendency of giving a locality low rates to induce investment of capital and to bring population to said points?

A. Rates can be adjusted and are adjusted by competition to points which have the effect of increasing the business there, increasing the location of people, but taking the whole line of roads between Atlanta to West Point, or clear up to Opelika, and flatten them out to not higher than the Opelika rate would not induce any immigration there; would not result, in my opinion, in increasing the business at all. As I said before, it would no doubt make some change in the distribution of the business. It would not increase the total business done. It would not increase the total influx of immigration in there.

8. Q. Your opinion, then, is that a reduction of rates at a locality resulting from competition would tend to induce the investment of capital at such locality and to increase the population of such locality, but not a reduction of rates from any other cause?

A. I said this: I said that competition at a given point might be so fierce as to force rates to a very low basis, and thereby attract more population or more capital there than if the rates were materially higher.

But I say no such condition exists with respect to rates at Ope-
155 lika or with respect to rates to these intermediate points. I am emphatically of the opinion that the reduction of rates on boots and shoes and dry goods and merchandise generally shipped from the

East to these intermediate points would not to any appreciable extent cause anybody to settle at any one of these points that would not settle there anyway; and that it would not result in any more dry goods and boots and shoes and merchandise being sold at all these stations, not including Opelika, than are sold there now. So far as manufacturing establishments are concerned, the rates on their output going out now are not materially greater than from the competitive points.

9. Q. The reductions named to West Point, Lagrange, etc., would make the rates to those points not higher than the rates to Opelika, would they not?

A. Yes, sir.

10. Q. The rate on first class goods to Lagrange from New York is $1.54 per 100 lbs., while the rate for the longer haul through Lagrange to Opelika is $1.14, making a difference in favor of Opelika of 40 cents per 100 lbs. Would not a reduction of 40 cents per 100 lbs. be, in your opinion, a material reduction?

A. Quite material.

11. Q. The rates from New York to West Point on first class goods is $1.42, while for the haul through West Point to Opelika it is $1.14, making a difference of 28 cents in favor of Opelika. Would not a reduction of 28 cents be, in your opinion, material?

A. A very material reduction. A reduction of 20 per cent. But the difference between these rates is not greater, in my opinion, than is proper. We have strong competition at Atlanta and strong competition at Opelika forcing these rates to the figures at which they are. There is not this competition at these intermediate points. The circumstances are different and it affects necessarily the rates to Atlanta and the rates to these points, and I know of no better way of arriving at the value of the service, at the proper difference, than to take the rates which have been fixed by law and accepted by the railroads as the proper measure of the value of the service from Atlanta to these points.

12. Q. What roads actually reach Opelika?

A. The roads actually reaching Opelika are the Central of Georgia Railroad and the Western Railway of Alabama.

13. Q. Are not all the lines which are named in your direct
156 examination as leading to Opelika formed by the combination with those two roads which actually reach Opelika either as terminal or initial members of those lines?

A. Yes, sir.

14. Q. You stated that there were two roads which reached Newnan. Name those roads.

A. The Central of Georgia Railway and the Atlanta & West Point.

15. Q. Can not a large number of lines be formed by combining those two roads either as initial or terminal carriers with other roads to the East?

A. Yes, sir; and that has been so for a long time. But the competition between those roads reaching Newnan and their connections has not been such as to reduce the rates to Newnan to the same basis as to Opelika. The competition at Opelika which reduced these rates to the present basis existed years ago, long before 1887. The adjustment of rates to Opelika was one of fierce competition. At least one of the roads and

its connections insisted upon the adjustment as it is at present. The matter was even considered by the Alabama railroad commission, of which Capt. W. L. Bragg, at one time a member of the Interstate Commerce Commission, was then chairman; and the competition, the discussion, the negotiation, the opinion of the commission of Alabama, all tended to reduce the rates to Opelika to the present basis. No such competition as that has ever existed at Newnan. At least, it has not had the effect of reducing the rate. No line has gone in and made that adjustment; no line has determined to make that adjustment, as was the case at Opelika.

16. Q. How far is Newnan from Atlanta?

A. Thirty-nine miles.

17. Q. You also stated that there was two roads which actually reached Lagrange. Name those roads.

A. The Macon & Birmingham and the Atlanta & West Point.

18. Q. Do not those roads as initial or terminal carrier form lines with a number of other roads and lines to and from the East?

A. All that I have said with respect to Newnan may be said with respect to Lagrange.

19. Q. If you go far enough around from the direct route, the number of lines which may be formed by combination is almost unlimited, is it not?

A. Very numerous.

20. Q. You stated in your direct examination that the rates to
157 West Point, Lagrange, and these other intermediate points from New York were just and reasonable in and of themselves. The rates to West Point and Lagrange, being respectively, 1.42 and 1.54 on first class goods, is the materially lower rate of $1.14 for the longer haul though those points to Opelika also just and reasonable in and of itself?

A. It could be higher and not unjustly high. But as it exists it pays more than the cost of carrying the business to Opelika, considered alone.

21. Q. You spoke of rates to West Point, La Grange, and so forth, as being reasonable in and of themselves, because, among other reasons, they were based in part on rates not higher than those prescribed by the Georgia railroad commission?

A. I said the difference between the rate to Atlanta and the rates to these stations did not exceed the rates of the Georgia commission, and I said I knew of no better maxim measure of the value of the service or of the differential than that.

22. Q. Does the Georgia railroad commission have or attempt to exercise any authority in respect to the through rates on interstate commerce, or proportions of such through rates?

A. I do not understand that the Georgia commission has any control over interstate rates, but they do attempt to regulate interstate rates through the Interstate Commerce Commission, or at least have done so. They have done so in this particular case.

23. Q. You mean they instituted these suits before the Interstate Commerce Commission?

A. Yes, sir.

24. Q. You stated in substance in your direct examination tha the average receipts per ton per mile and estimated cost of carrying one ton

one mile on traffic in general did not furnish a standard by which you could determine what was a reasonable rate in a given case, I believe?

A. Yes, sir.

25. Q. Is not such data useful to some extent in determining whether an existing rate is or is not excessive?

A. It is useful in determining whether all the rates are excessive. In other words, the average receipts of a road per ton per mile might be so much that, taken in connection with other things, it might be held that the rates were excessive. But much the largest portion of the tonnage of all roads is carried at rates which are fixed by competition in some form or other, either of carriers or of markets or of one product with another product, which will serve the same purpose.

158 26. Q. How long have carriers been making out this data as to average receipts per ton per mile and estimated cost of carrying one ton one mile?

A. A great many of them do not do it at all. The Southern Railway to-day does not attempt to figure the cost per ton per mile of carrying freight. The records of the East Tennessee, Virginia & Georgia Railroad show that the estimated average cost for transporting all kinds of freight on all portions of the East Tennessee, Virginia & Georgia Railroad from April 1st, 1891, to June 24th, 1892, inclusive, was seventy-one one-hundredths (.71) of a cent per ton per mile.

27. Q. Has not this data been kept by other roads for a great many years?

A. I have no information that any road has invariably kept the cost per ton per mile for a great many years. Some roads have done it for some years, I know.

28. Q. They have done it for their own use, have they not?

A. I assume so. It is published in their annual reports. I will say that my opinion is that it is very difficult if not impracticable to arrive at the actual cost per ton per mile of moving freight traffic over any road.

29. Q. This data is based upon actual calculation, is it not?

A. The average receipts per ton per mile are very easily arrived at. The average cost per ton per mile, as I have testified, is estimated as to the East Tennessee, Virginia & Georgia Railroad.

30. Q. The average receipts per to' per mile are the result of accurate calculation, are they not?

A. Yes, sir.

31. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration in excess of the cost of transportation?

A. In my opinion a road is always justified in taking the additional traffic, or traffic which it otherwise could not get, to the extent of making a rate as low as the actual movement expense incurred in the movement of that traffic.

32. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of carriage?

A. It is very difficult to obtain the actual cost of carriage. Railroads arrive at that result just as nearly as they can, and then they endeavor in making rates to fix that average cost or that estimated cost of carriage

as a minimum below which they will not go. Now there may be
159 average cost or estimated cost including fixed charges; there is the cost which leaves out the fixed charges and take all other kinds of expense; then there is a cost which pertains simply to the movement of a particular business, a cost which is incurred only because that particular business is moved.

33. Q. Is not the expense or the cost of the service of carriage an element to be considered in determining the reasonableness or the unreasonableness of a given rate or set of rates?

A. My experience is that the estimated cost is only used as a minimum below which the carriers will not go.

34. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Other things being equal, the longer the haul the greater the cost.

35. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Other things being equal; yes. A great deal, however, is covered by that term "other things being equal."

36. Q. Is not the consumption of fuel greater the greater the length of the haul, other things being equal?

A. Other things being equal; yes.

37. Q. Is not the wear and tear on locomotives, cars, tracks, road, etc., greater the greater the length of the haul, other things being equal?

A. Yes, sir.

38. Q. Is not the cost of keeping the road in repair or in good condition greater the greater the length of the haul, other things being equal?

A. Yes, sir.

39. Q. Other things being equal, does it not require more locomotives and cars and more crews for running trains on a long road than on a short road?

A. Other things being equal; yes, sir.

40. Q. Other things being equal, does not distance add to the cost of building a road, and are not therefore the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Other things being equal; yes, sir.

41. Q. Other things being equal, is not the service more valuable to the shipper the greater the length of the haul? In other words, will not a haul of 100 miles give a shipper more extended markets for his goods or produce than a haul of 50 miles?

A. Not necessarily. The haul to the shipper or consignee where he is at a point 100 miles distant from the point of shipment may not be
160 worth as much as the haul to the consignees remote only 50 miles from the same point of shipment.

42. Q. Are not the rates from New York to West Point, La Grange, and the other intermediate points named, made up of the through rates through to Opelika or Atlanta plus the locals to those points either from Opelika or Atlanta?

A. That is not true as to Newnan, and it is barely possible that the rates to Granville may be made on the basis of the rate to Newnan, added to the Georgia commission rate, but I am not sure of that. If the rates

to Newnan added to the local rate of the Georgia commission from Newnan would make a lower rate than from Atlanta, then the Newnan combination would obtain.

43. Q. Is not traffic transported from New York and other northeastern cities to West Point, La Grange, and the other intermediate points named, under a through bill of lading naming an aggregate through issued by the initial carrier at New York?

A. Consignments are made through, and through rates are given.

44. Q. Is not the expense to the carrier on strictly local hauls in less than car loads greater per ton per mile than on through hauls?

A. The conditions being equal; yes.

45. Q. Was Opelika one of the localities treated as a competitive point by the Southern Railway & Steamship Association during the existence of that association?

A. During a part of the existence of it.

46. Q. Are not the same rates now in force to Opelika from New York and other northeastern cities as were maintained to that point during the existence of the Southern Railway & Steamship Association?

A. During the latter part of it.

47. Q. Those rates were maintained, were they not, at the time that the association went out of existence?

A. Those were the rates at the time it went out of existence.

48. Q. The rates maintained or established by the Southern Railway & Steamship Association were made by the consent of the carriers, members of that association, were they not?

A. They were the result of competition between these carriers who were members of the Southern Railway & Steamship Association and some of whom were not.

49. Q. Did not the members of the association consent to the rates established by the association so long as they remained members thereof?

161 A. They operated these rates, but they were forced by competition. The railroad companies would not have allowed the rates to be reduced to Opelika lower than to other places except for that competition.

50. Q. Competition caused the roads to form the association, did it not?

A. The association was formed as a means of preventing the roads destroying each other by competition.

51. Q. After that association was formed did it not by a committee establish rates for all the line members of the association?

A. The association did not do it. The lines by becoming members did not surrender all their rights as individual lines. It was simply the machinery for conference—for the expression of views—for the competitive forces, but without the destructiveness of competition, and no line ever joined the association without the power and reserving the right to go out of that association upon a reasonable notice or refuse to join the association at the end of the year. There never was a surrender of their right as there would be by the lease of a railroad to some other railroad or some other company.

52. Q. I understand that; but were they not at least called upon, so long as they were members of that association, to conform to the rates established by it?

A. They had all their rights to insist upon any rates they desired; if, however, they failed to agree or to come to an understanding about that rate the members of the association did have an agreement by which they agreed to submit to arbitration these questions, and whenever this disinterested body said that such and such an adjustment of rates was a proper one, they abided by it if they could. If the competition, however, required the rate to be made, it made it. For illustration, if the rate had been, we will say, $1.54 from New York to Opelika, and that had been considered the proper rate by the line competing for the business from Opelika to New York, and some line had wanted to reduce that rate itself, it would have decided to reduce that rate. If an agreement could not have been reached, or an understanding been reached, it would have gone through the various deliberative bodies to the final disinterested arbitration board, and if the board said $1.54 is the right rate, the proper rate in and of itself, still if the rate from the West over the lines which were not members of the association who controlled the bulk of trade to Opelika, who absorbed nearly all the rate, insisted upon a rate to Opelika
which was less than a rate relative to that $1.54, the lines mem-
162 bers of the association would have had to recognize the fact then, and reduce the rate from the East to Opelika.

53. Q. Whatever rates were promulgated by the association had been previously agreed to, had they not, by the lines subject to those rates?

A. Yes, sir; either by agreement or by arbitration.

54. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Ohio and Potomac rivers?

A. More than 26 years.

55. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce in 1887, except in case of competition in transportation to the longer distance points?

A. Not that I recall. No line willingly and of its own volition arbitrarily reduces the rates to a further point to a less figure than an intermediate point. It is the result of competition where it does make the rate less for the longer than for the shorter distance in the same direction over the same line.

Redirect examination by Mr. BAXTER:

1. Q. Something has been said in the cross-examination in regard to the value of the service. May there not be a difference between the value of the service to the shipper and the value of the service to the carrier?

A. Precisely. The value of the service to the shipper or consignee for the transportation of 100 lbs. of stuff may be only 25 cents per hundred pounds. The value of that service may be to the carrier greater from at least two reasons: One, that it will cost it more to perform the service than the 25 cents; another reason, that it may be employing all its motive power and rolling stock in the transportation of property which yields it for an equivalent service more net money than 25 cents would for the first service referred to.

2. Q. If the shipper living at Memphis, where cotton is worth in the market, say, 10 cents, ship that cotton to Holly Springs, where it is worth in the market only 9 cents a pound, would not the value of the service to him be less than nothing?

A. It would; one cent per pound less than nothing.

3. Q. If, on the other hand, he shipped it from Holly Springs, where it was worth 9 cents per pound, the value of the service to him would be one cent, would it not?

163 A. Yes, sir; one cent per pound; and in either case the value of the service to the railroad company might be the same.

4. Q. Please file as Exhibit No. 1 to your deposition a copy of the articles of association of the Southeastern Freight Association.

A. Yes, sir.

(The articles of agreement referred to are marked "Culp, Exhibit No. 1," hereto attached.)

5. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue of this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Y. VAN DEN BURG, a witness on behalf of defendant, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. Y. Van den Burg; forty-one years of age; traffic manager Louisville & Nashville Railroad Co.; Louisville, Ky.

2. Q. How long have you been connected with the freight traffic business of the United States, and in what capacities?

A. I have been connected with the traffic departments in the United States since 1880, and with the lines in the territory south of the Ohio and east of the Mississippi rivers since 1882, in various capacities, from freight clerk up.

3. Q. In this case the Interstate Commerce Commission ordered the defendents to desist from charging for the transportation of the like kinds of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, La Grange, and West Point, more than to Opelika. The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta, to Newnan, Grantville, Hogansville, La Grange, and West Po'nt were, in November, 1892, as follows:

164 [Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	78	.....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	94	.....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	97	.....
La Grange, Ga	154	135	118	102	82	66	....	....	....	....	....	99	.....
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	88	.....
Opelika, Ala	114	98	86	73	60	49	36	48	40	30	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, La Grange, and West Point so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. Newnan, Grantville, Hogansville, La Grange, and West Point simply supply local consumption or demands at the point proper and within limited territory adjacent. The reduction in rates indicated would not increase the consumption, and there would be no increase of traffic to compensate the carrier to any extent for the loss of revenue on account of the reduction.

In saying this I have in mind that competing roads to points on their lines opposite the Atlanta and West Point points mentioned and which points compete with the Atlanta & West Point Road in supplying the consumption in the territory situated between their lines and the Atlanta and West Point would, of necessity, revise their rates so as to keep them aligned, as at present, with those that might be made to Atlanta & West Point points. In other words, the relative difference as between any one of these Atlanta and West Point points and points opposite on competing lines would remain the same, and this fact would simply result in each point holding its established trade.

4. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of all classes of freight from New York, Philadelphia, etc., to Opelika, Ala.

165 A. The following lines actually and actively competed in 1892, and do now compete, for the transportation of all classes of freight from New York, Philadelphia, etc., to Opelika:

From Boston:

Direct steamers of the Ocean Steamship Company to Savannah.

The Merchants & Miners' Transportation Companies, direct steamers to Norfolk.

The various lines of steamers and rail lines from Boston to New York, connecting with the direct steamer lines from that port to Norfolk, Portsmouth, Charleston, Savannah, and Brunswick, in connection with the rail lines from Norfolk, Portsmouth, Charleston, Savannah, and Brunswick.

The rail lines and the various steamship lines from Boston to New York, in connection with the Pennsylvania Railroad, and the Jersey Central Railroad from New York via Alexandria, Norfolk, Harrisburg, Hagerstown, Shenandoah Junction, and rail lines thence.

From New York:

The Ocean Steamship Company to Savannah.

The Clyde Line to Charleston.

The Mallory Line to Brunswick.

The Old Dominion Steamship Co. to Norfolk and Portsmouth, in connection with the rail lines from Norfolk and Portsmouth, Charleston, Savannah, and Brunswick.

And the following all-rail routes:

The Pennsylvania Railroad via Alexandria, Harrisburg, and Hagerstown, the various rail lines thence.

The Pennsylvania Railroad via its Norfolk route, the various rail lines thence.

The Jersey Central in connection with the Reading road via Harrisburg.

The Jersey Central in connection with the Baltimore and Ohio via Shenandoah Junction, in connection with the rail routes from Harrisburg and Shenandoah Junction.

From Philadelphia:

The Ocean Steamship Co., to Savannah.

The Clyde Steamship Co., to Charleston, in connection with the rail routes from Savannah and Charleston.

The Pennsylvania Railroad via Alexandria, Harrisburg, and Hagerstown, and Norfolk, in connection with the rail routes from Alexandria, Harrisburg, Hagerstown, and Norfolk.

The Baltimore & Ohio via Shenandoah Junction, in connection with the rail lines from that junction.

166 From Baltimore:

The Bay Line of steamers to Norfolk and Portsmouth.

The Merchants and Mariners' Transportation to Savannah, in connection with the rail lines from Norfolk, Portsmouth, and Savannah.

The Pennsylvania Railroad via Alexandria, Harrisburg, Hagerstown, and Norfolk, and via Richmond, with the Richmond, Fredricksburg and Potomac Railroad, in connection with the rail lines from Alexandria, Hagerstown, Harrisburg, Norfolk, and Richmond.

In addition to the regular steamer lines already enumerated from Boston, New York, Philadelphia, and Baltimore, there are at all times numerous sailing vessels from Boston, New York, Philadelphia, and Baltimore to South Atlantic ports.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from cities other than New York and Philadelphia.

A. The following lines competed in 1892 and do now compete for the transportation of all classes of freight to Opelika from cities other than New York, Philadelphia, etc.:

From Cincinnati:

The Cincinnati, New Orleans and Texas Pacific Ry. via four different routes.

The Louisville & Nashville Railroad via three different routes.

The Baltimore & Ohio Southwestern Railway via four different routes.

From Louisville:

The Louisville & Nashville Railroad via three different routes.

The Southern Railway via three different routes.

The Illinois Central Railroad via four different routes.

From Evansville and Henderson:

The Louisville & Nashville Railroad via three different routes.

The Ohio Valley Railroad via four different routes.

From Paducah:

The Nashville, Chattanooga & St. Louis Railway via three different routes.

The Illinois Central Railroad via the four different routes.

167 From Cairo:

The Nashville, Chattanooga & St. Louis Railway, via two different routes,

The Illinois Central Railroad, via seven different routes,
The Mobile & Ohio Railroad, via seven different routes,
The Baltimore & Ohio Southwestern Railroad,
The Cincinnati & Muskegon Railroad,
The Cincinnati & Westwood Railroad,
The Cincinnati, Georgia & Portsmouth Railroad,
The Cincinnati, Hamilton & Dayton Railroad,
The Cincinnati, Jackson & Mackinaw Railroad,
The Cincinnati, Lansing & Northern Railroad,
The Cincinnati & Northwestern Railroad,
The Cincinnati, Portsmouth & Virginia Railroad,
The Cleveland, Cincinnati, Chicago & St. Louis Ry.,
The Erie Railroad, and
The Pennsylvania Railroad are terminal lines at Cincinnati, reaching that point from the North, East, or West.

The Chicago, Indianapolis & Louisville Railroad,
The Baltimore & Ohio Southwestern Railroad,
The Cleveland, Cincinnati, Chicago & St. Louis Ry.,
The Pennsylvania Railroad,
The Louisville, Evansville & St. Louis Railroad,
The Louisville, Henderson & St. Louis Railroad are terminal lines at Louisville, reaching that point from the North, East, or West.

The Louisville & Nashville Railroad,
The Evansville & Terre Haute Railroad,
The Louisville, Evansville & St. Louis Railroad, and
The Peoria, Decatur & Evansville Railroad are terminal lines at Evansville, with a bridge transfer at Henderson, reaching those points from the North or West.

The Illinois Central Railroad is a terminal line at Paducah from the North.

The Cleveland, Cincinnati, Chicago & St. Louis R. R.,
The Illinois Central Railroad,
The Mobile & Ohio Railroad,
The St. Louis, Iron Mountain & Southern R. R., and
168 The St. Louis Southwestern Railroad are terminal lines at Cairo, reaching that point from the North or West.

All these lines, with terminals at Cincinnati, Louisville, Evansville, Henderson, Paducah, and Cairo compete, in connection with lines leading south from these Ohio River crossings, for Opelika traffic originating on their lines, or through their connections in territory east and north of them and west of them as far as the Pacific coast.

6. Q. State whether the rates on the above-mentioned classes of freight from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Opelika, are controlled to any, and, if so, to what extent, by competition.

A. The rates from New York and Philadelphia to Opelika on the various classes of freight via Charleston, Augusta, and Atlanta were entirely controlled by competition. The existing rates were established by the Central of Georgia Railway and its various connections, and there is no alternative left to the route via Charleston, Augusta, and Atlanta but to compete at the same figures.

7. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, La Grange, and West Point are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. I consider the rates on various classes of freights from New York and Philadelphia via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, La Grange and West Point as just and reasonable of themselves.

The rates to Grantville, Hogansville, La Grange, and West Point are made on the lowest obtainable combination, Atlanta and Opelika governing, as the case may be. In other words, in the adjustment of the totals to these points they are given the benefit of whatever competition may have compelled the existing rates to Atlanta and Opelika to be with the rates fixed by the Georgia railroad commission, added, and which latter are lower than charged for similar services and distances in other sections of the country and lower than can be obtained by any other means of transportation.

So far as Newnan is concerned, the Central Road and its various connections fix the rates from New York, Philadelphia, etc., to that point less than the lowest combination; and while they are, in my
169 opinion, lower than they may reasonably be, the route via Charleston, Augusta, and Atlanta must either compete at those rates or retire from competing for the traffic.

8. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

As an illustration: Where percentages are established between coastwise steamers and inland carriers in dividing rates from Eastern cities to interior points, the lines from New York to Charleston, Savannah, and Brunswick are allowed earnings equivalent to 250 miles of rail service. The distance from Savannah to Opelika is 292 miles, making the distance from New York to Opelika, via Savannah, 542 miles. The distance from Charleston to Opelika is 417 miles, making the distance from New York to Opelika, via Charleston, Augusta, and Atlanta, 667 miles. In other words, this latter route, with its 667 miles, has to perform the service at the same rate the 542 route realizes.

9. Q. State whether there is any such competition at Newnan, Hogansville, La Grange, or West Point as effects rates like the competition that exists at Opelika.

A. The Atlanta and West Point Roads is the only line reaching Grantville and Hogansville. West Point is the junction of the Atlanta & West Point Railroad and the Western Railway of Alabama, which are under a common management and control, and the point is only reached. But, in fixing rates from Eastern cities to Grantville, Hogansville, and West Point, the competition that forces the existing rates to Atlanta and Opelika has been recognized, and so far as the carriage up to Atlanta or Opelika is concerned traffic for these points, Grantville, Hogansville and West Point,

is as competitive as if it were destined to Atlanta and Opelika proper. La Grange is a junction between the Macon & Birmingham and the Atlanta & West Point roads, and in fixing the rates from eastern cities to this point the competition that forces the existing rates to Atlanta has been recognized, or, in other words, so far as the carriage up to Atlanta is concerned, traffic from Eastern cities to La Grange is as competitive as if destined to Atlanta proper.

Newnan is the junction between the Atlanta and West Point, and the Central of Georgia Railway, and this competition affects the rate
170 to that point to the extent of having resulted in the adoption of totals less than any combination yet somewhat higher than Opelika.

10. Q. State whether the number of tons carried one mile or the number of tons car'ied of freight earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile, can, either jointly or separately, be used as the standard in rate making, and give your reasons for any opinion you may express.

A. The items can not be used as a standard in railroad rate making in fixing an adjustment of rates between any two or more points. Rates have to be made on all classes of freight so as to cover anything that might be offered for transportation, and not knowing the tonnage that will move under each class, or the aggregate tonnage that will be moved under all classes, or the percentage the aggregate tonnage stands to the total tonnage of the road, it is impossible to consider the rate per ton per mile, or the average receipts per ton per mile, in fixing rates between any two or more points; and, independent of this, competition compels the carrier frequently to fix rates without regard to any one or more of these specific items of your inquiry.

11. Q. Do you know, or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer. In other words, do you know anything else material to either side of this case?

A. No, sir.

Cross-examination by Mr. SHAVER:

1. Q. You named a number of lines that may be formed from New York and other Northeastern cities, to Opelika. Can not all those lines be formed also to West Point, La Grange, Hogansville, Grantville, and Newnan by combination with the Atlanta & West Point Railroad and the Western Railway of Alabama as the terminal carriers of the lines?

A. The various lines I have mentioned as competing for the traffic to Opelika may, in connection with the Western Railway of Alabama and the Atlanta & West Point Railroad, compete for traffic to the points that have been mentioned.

2. Q. Do they not compete for traffic to those intermediate points?

A. I understand they compete for traffic destined to Newnan, Grantville, Hogansville, La Grange, and West Point.

171 3. Q. Traffic is transported from New York and other Northeastern cities over those lines to Newnan, Grantville, Hogansville, La Grange, and West Point under through bills of lading and under through rates, is it not?

A. I understand through rates are published from New York and other Eastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point, and can be transported under through bills of lading.

4. Q. Is not traffic transported over those lines, under through bills of lading, naming through rates?

A. The Louisville & Nashville Railroad does not compete for traffic from New York and other Eastern cities to the points that have been mentioned, but where through rates are published it is reasonable to assume that through bills of lading are issued.

5. Q. You stated that the reduction in rates to Newnan, Grantville, Hogansville, La Grange, and West Point, so as to make these rates not higher than the rates to Opelika, would not increase the traffic to those points. Is not the natural tendency of a reduction in rates to a given point toward improving and increasing the business at that point?

A. As I stated, Newnan, Grantville, La Grange, and West Point simply supply a local consumption or demand at the points proper and within a limited territory adjacent. A reduction to these points would unquestionably result in the rates from Eastern cities to points on other lines that now supply territory tributary to Newnan, Grantville, Hogansville, La Grange, and West Point being reduced, and this would result in all these points simply holding the trade they now have. The reductions would not result in increasing the consumption at any of these points. In other words, it would not result in the consumption of any more flour, bacon, or dry goods, or boots and shoes, than there is now.

6. Q. You have stated all that in answer to the direct interrogatories. My question does not call for that. I will repeat it. Is not the natural tendency of a reduction in rates to a given point towards improving and increasing the business at that point—is not that the natural tendency?

A. I have given my reasons why the reductions in the rates can not, in the case referred to, increase the traffic to these points. To make from New York to West Point the same rate as from New York to Opelika would, on first-class, involve a reduction of twenty-eight cents per hundred pounds. Dry goods is classed as first-class. There are hundreds of yards in a hundred pounds of dry goods, and a mer-
172 chant selling these dry goods, let him be ever so willing, could not possibly distribute the twenty-eight cents per hundred pounds of reduction on these hundreds of yards of dry goods. Hence, no reduction in the price of dry goods would result, and the reduction in the freight rate would yield no benefit to the consumer.

7. Q. My question was a general question, not with reference to points involved in this case, but it is this:

Is not the natural tendency of a reduction in rates to a given point towards improving and increasing the business at that point? Would not that be the general rule in the absence of exceptional conditions?

A. I do not believe that I can answer that general question as applicable to the case in point. I have stated that, under existing conditions, a reduction in rates from Eastern cities to these various Atlanta and West Point points, making them the same as from New York to Opelika, would not result in increasing the traffic.

8. Q. Can you answer the question without reference to the localities involved in this case: Whether or not, as a general rule, in the absence

of exceptional conditions, the natural tendency of a reduction in rates to a given point is towards improving and increasing the business at that point? Can you or not answer that question?

A. In answer to the previous interrogatory I did not refer to exceptional conditions, and I can not answer the general question as you seem to construe it.

9. Q. Is not the natural tendency of a reduction in rates to a given point towards the encouragement of the investment of capital at that point and the increase of its population?

A. Not necessarily. Wherever a carrier reduces its rate to a certain point, and such reduction is to the detriment of any other point on a competing line, rates to that point are also reduced and the status quo is maintained. I do not believe that an adjustment of rates to our Southern territory, different from what exists at present, would materially change the distribution of the traffic. The conditions governing the distribution of the traffic have been largely forced by commercial conditions, and all railroads can undertake to do is to meet commercial conditions.

10. Q. I understand it to be your opinion, then, that the reduction of rates to these shorter distance points, Newnan, Grantville, Hogansville, La Grange, and West Point, so as to make them not higher than the rates to Opelika or Atlanta, would not affect the distribution of traffic as between those points and Opelika and Atlanta?

173 A. While it would not result in an increase of the traffic, it might result in Newnan, Grantville, Hogansville, La Grange, and West Point drawing their supplies to some greater extent from New York or some other point, as, for example, Atlanta, than they do at present.

11. Q. Is not the natural effect of unfavorable rates to or discrimination in rates against a given point to injure the mercantile and other business interests of such point, and to retard or prevent its growth and prosperity?

A. A railroad company could adopt a rate adjustment that would absolutely kill a town; but, with my knowledge of affairs, I do not know of any road pursuing such a policy towards any point.

12. Q. That policy would be suicidal, would it not?

A. Yes, sir; suicidal to the railroad.

13. Q. Is it not, then, more to the interest of roads that they should have such a system of rates that would build up the business at the local stations along their entire lines than a system which favors the building up of widely separated trade centers?

A. It is to the interest of every railroad, and so far as I know it is the policy of every Southern railroad, to build up its local business. But, as to the case in question, the business at Newnan, Grantville, Hogansville, La Grange, and West Point would not in my opinion be increased by any reduction in freight rates.

14. Q. Have not Atlanta and Opelika been benefited by the rates lower to those points than to surrounding shorter distance points?

A. It may have resulted in Atlanta and Opelika distributing to a territory somewhat larger than would be the case under a higher adjustment of rates.

15. Q. Is it not a well-known fact that Atlanta has been built up by railroads?

A. The concentration of transportation lines at Atlanta has unquestionably been of considerable benefit to it.

16. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. Yes, sir; but that is not the case when you come to compare the business of Atlanta with the business at Newnan, Grantville, Hogansville, La Grange, and West Point.

174 17. Q. Do not merchants at Atlanta trade at Newnan, Grantville, Hogansville, and La Grange, and in adjacent territory, in competition with local merchants at Newnan, Grantville, Hogansville, and La Grange?

A. I do not believe the jobbing houses of Atlanta undertake to supply local consumption at the points mentioned, but, as a rule, confine their business to merchants located at these points.

18. Q. Do not merchants at Opelika trade at West Point or La Grange and adjacent territory in competition with local merchants at West Point or La Grange?

A. I am not familiar with just what the Opelika merchants do in this respect.

19. Q. If the rates from New York and other Northeastern cities to Newnan, Grantville, Hogansville, and La Grange were so reduced as not to be higher than the Atlanta rates, would not the merchants at Newnan, Grantville, Hogansville, and La Grange buy all their goods direct from New York and other Northeastern cities, and not buy any of their supplies from Atlanta?

A. It depends upon what the relations are between the Atlanta merchants and the merchants at the points mentioned in the way of making advances, extending credits, etc., etc., but I should think a reduction in the rates from New York and Eastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point would tend to divert some business now controlled by Atlanta to New York and other Eastern cities.

20. Q. If the rates from New York and other Northeastern cities to West Point and La Grange were so reduced as not to be higher than the Opelika rates, would not the local merchants at La Grange and West Point procure their goods from New York and other sources of supply rather than from Opelika?

A. My answer is substantially the same as made to the previous interrogatory.

21. Q. Do not rates affect the price of goods, and therefore do not lower rates tend to bring about lower prices?

A. Yes, sir. But, as I have previously explained, the reductions ordered to West Point and the other stations would not result in lowering prices to the consumer, even if the merchants were willing to pursue that policy.

22. Q. The West Point rate from New York to Philadelphia on first class is $1.42, while for the longer distance, through West Point to Opelika, it is $1.14, making a difference of twenty-eight cents in favor of Opelika. Is not that a material difference in rates?

175 A. It is not very material when you come to distribute it over the hundreds of yards of calico which it takes to make a hundred

pounds of weight, or on a hundred pounds of boots and shoes, or a hundred pounds of hats and caps.

23. Q. Do not lower prices bring goods within the reach of a greater number of people and thus increase consumption?

A. It has that tendency.

24. Q. What are your duties as traffic manager of the Louisville & Nashville Railroad?

A. The making of rates is under my jurisdiction.

25. Q. Are not rates necessarily expressed in figures and are not they the sum of other figures?

A. I do not know that I understand you; if you mean that the rates between any two points are necessarily the combination of two or more other rates, I must answer no.

26. Q. I do not mean that. I mean in fixing a rate do you not, for instance, first fix the cost at so many cents in figures, and then the other items in figures, that go to make up the total rate?

A. No, sir.

27. Q. In your opinion, is not the test of the reasonableness of a rate, whether traffic will move under it and not be diverted from the road or line charging the rates to another road or line?

A. Not necessarily.

28. Q. Is not a rate under which traffic will move and which is not so high as to divert the traffic to other roads or lines a reasonable rate?

A. My opinion is it is not unreasonable.

29. Q. As one ground of your opinion that the rates to the intermediate points involved in this case, Newman, Grantville, Hogansville, La Grange, and West Point were reasonable, you stated that they were lower than by other modes of conveyance?

A. Yes, sir.

30. Q. What other modes of conveyance did you refer to?

A. I testified that the rates are lower than can be secured by any other practicable means of transportation. For instance, if Newman, Grantville, Hogansville, La Grange, and West Point were not reached by rail, and would have to draw their supplies by teams, the cost of transportation to the consumer would be very much greater than the present rates.

31. Q. I think you also mentioned as a reason why you thought those rates reasonable that they were not higher than the rates established for the same distance by the Georgia railroad commission?

176 A. I stated the rates were reasonable because they were based upon the existing rates to Atlanta or Opelika, which are forced by competition, with the Georgia railroad commissioners' rates added, and which latter were on a lower basis than prevails in some other sections of the country.

32. Q. Do you consider that the rates established by the Georgia railroad commission as reasonable and just?

A. I believe they are in many cases lower than the carriers would be warranted in making.

33. Q. Therefore you think they are unreasonably low in many cases?

A. No, sir; I do not mean that. They can be lower than they would be warranted in making them, and yet not unreasonably low.

34. Q. Are the rates from New York and other Northeastern cities to Opelika reasonable in and of themselves, considered solely from the standpoint of the carrier? That is, do they pay the cost of the service of carriage, and yield the carrier a reasonable compensation over and above that cost?

A. I think they do.

35. Q. Would higher rates from New York and other Northeastern cities to Opelika be charged but for competition?

A. I am inclined to believe they would.

36. Q. If the other roads or lines reaching from New York and other Northeastern cities to Opelika, and competing for the traffic from New York and other Northeastern cities to Opelika made no higher charges for the shorter hauls to intermediate points than for the longer hauls over the same line to Opelika, but charged rates to Opelika reasonably high and remunerative, over and above the expense of the service of carriage, would the line involved in this case be compelled to make such greater charge for the shorter haul to Newnan, Grantville, Hogansville, La Grange, and West Point than to Opelika in order to retain its share of the business?

A. I do not know that they would be compelled, but they would be very apt to do so.

37. Q. If the rates from New York and other Northeastern cities to Opelika, over the line involved in this case, were advanced so as to make them not less than the rates now charged to the intermediate points, Newnan, Grantville, Hogansville, La Grange, & West Point, and the rates on all the other lines from New York and other Northeastern cities to Opelika were also so advanced, would there result any diversion of traffic from the lines involved in this case to such other lines?

A. It would tend to divert traffic from New York and other
177 Eastern cities to points of production in other sections of the country, and I believe that would be the result.

38. Q. If the rule that there shall be no greater charge for a shorter than a longer haul over the same line in the same direction, the shorter being included in the longer, were observed by all the roads or lines, from a given point to a given point, would it be necessary for any one of those roads or lines to depart from this rule in order to retain its share of the traffic and prevent diversion of traffic to other roads and lines?

A. To charge no more for a shorter than for the longer distance in our Southern territory, and accomplish this by advancing the rate to what may be termed the "common points" to the figures now in effect to the intermediate points near by, would, in my opinion, result, if not in bankruptcy to the roads, in seriously embarrassing most of them, for it would deprive these roads from competing for traffic to practically all the common points against the coastwise and other transportation lines. If accomplished by reducing the rates to the intermediate points to what I may term the "common points," the reduction of earnings in consequence would unquestionably bankrupt the most of the Southern roads, if, in fact, there would be any exceptions.

39. Q. My question assumes that the rates by all the lines are equally advanced and the same from a given point to a given point.

A. That can not be accomplished because of uncontrollable and, in many instances, unlimited water competition.

40. Q. My question includes rates by water lines as well as by rail lines.

A. If it were practicable to advance rates to common points from the various sections of the country by the all rail, part rail, and part water and the all-water lines to intermediate points near by there could be no material diversion of traffic to any one particular transportation line.

41. Q. Is a rate reasonable in itself from the carrier's standpoint which does not yield to the carrier a proper remuneration in excess of the cost of service?

A. I do not believe carriers make those kind of rates.

42. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of carriage?

A. Taking the Louisville & Nashville Railroad as an illustration, amongst the thousands of tons of freight that moves every day from all of its points it is impossible to say what is the cost of transportation of any particular commodity between any two given points.

178 42½. Q. I will repeat the question. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of carriage?

A. As I stated in my answer to the previous interrogatory, it is impossible to ascertain the cost of transportation on any one article between any two points, and hence it is impossible to consider that feature in judging whether a rate is remunerative.

43. Q. Is it impossible, then, to determine whether or not a rate is reasonably remunerative?

A. Experience enables traffic men to judge whether a rate is remunerative or unremunerative without considering any particular items of cost of transportation.

44. Q. Is it impossible to determine whether a given rate pays anything in excess of the cost of service of carriage?

A. No, sir; our experience enables us to judge whether a rate is remunerative or not, but we can not state at any time to what extent any one particular rate be remunerative.

45. Q. Does not cost or expense of service of transporation depend largely, or to some extent, on the length of the haul, other things being equal?

A. Yes, sir. It costs more to handle certain freight five hundred miles than it would cost to handle the same freight under similar circumstances and conditions two hundred miles.

46. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Yes, sir; it takes longer to run a greater than a shorter distance.

47. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. It is.

48. Q. Other things being equal, is not the wear and tear on locomotives, cars, tracks, and roadbed, etc., greater the greater the length of the haul?

A. I suppose it is.

49. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. All these expenses for a road five hundred miles long are greater than for a road one hundred miles, although the expense per mile may not be greater.

50. Q. Other things being equal, does it not require more locomotives and cars and more crews for running trains on a long road than on a short one?

179 A. That depends upon the difference in the length of the longer and the shorter road.

51. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital invested in taxes, greater the greater the length of the road?

A. It costs more to build a road five hundred miles long than one one hundred miles, and yet the cost per mile may be no greater in the one instance than in the other.

52. Q. Is not the service more valuable to the shipper the greater the length of the haul? In other words, will not a haul of one hundred miles give a shipper more extended markets for his goods or products than one of fifty miles?

A. A shipper located at a point that has a railroad reaching a territory of one hundred miles has a better chance at distributing than a merchant located at a point having only fifty miles of road.

53. Q. Are not the through rates to Newnan, Grantville, Hogansville, La Grange, and West Point made up of the through rates to either Atlanta or Opelika plus the local rates either on to or back to those intermediate points, as the case may be?

A. Grantville, Hogansville, and La Grange rates are made on the Atlanta combination and West Point on the Opelika combination.

54. Q. You mean combination of through and local rates?

A. Yes, sir. Newnan is made less than the combination either on Atlanta or Opelika.

55. Q. That is because there are other roads reaching to Newnan, is it not?

A. I am not familiar with the reasons that compel a lower adjustment of the combination to that point.

56. Q. Is not the expense of the carrier of strictly local hauls greater per ton per mile than on long through hauls for the same distance?

A. It costs considerably more to handle local than through traffic.

57. Q. Are not the rates by all the lines from New York and other Northeastern cities to Opelika the same?

A. I believe they are.

58. Q. Are not those the rates that were in force when the Southern Railway & Steamship Association was in existence?

A. Yes, sir.

59. Q. Were not those rates promulgated by the Southern Railway & Steamship Association with the consent of carriers members of that association.

180 A. Yes, sir.

60. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and Ohio River?

A. Since 1882.

61. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce, in 1887, except in cases of competition in transportation to the longer distance point?

A. I do not recall any particular case, but competition between markets and markets and between products and products would naturally be considered, as well as competition between transportation lines.

62. Q. Where there is competition between markets and markets and products and products is there not also always competition in transportation present?

A. No, sir. For instance, the Louisville & Nashville Railroad is the only line from Nashville to Birmingham, and yet to enable Nashville to sell at Birmingham as against competing markets it is necessary to make lower rates than otherwise would be the case. The same is true from Nashville to Chattanooga, the Nashville, Chattanooga & St. Louis Railway being the only line from Nashville to Chattanooga.

63. Q. In the case of the Birmingham, what competing markets with Nashville do you refer to? Name one of them.

A. Memphis, Louisville, Cincinnati—all markets north and west thereof reached through those crossings and markets in other producing sections of the country.

64. Q. In transporting goods from Nashville to Birmingham does not the Louisville & Nashville Railroad come in competition with lines from the competing market from Memphis to Birmingham?

A. Yes, sir.

65. Q. Is there not, then, competition in transportation as well as in markets?

A. Nashville coming in competition with Memphis as a market, necessarily the Louisville & Nashville Railroad from Nashville to Birmingham comes in competition with the lines running from Memphis to Birmingham.

66. Q. Therefore I ask you if competition in transportation is not always present where there is competition of markets and of products with products?

A. There is, as a rule.

181 67. Q. Can you imagine a case where this is not so?

A. I have none in mind at present.

Redirect examination by Mr. BAXTER:

1. Q. When you speak of the cost of service or of the cost of the service of carriage, in your cross-examination, do you refer to the total estimated cost of transportation, or only to the additional cost of movement or a particular traffic?

A. I refer to the additional cost of movement.

2. Q. When you speak in your cross-examination of a rate being remunerative, do you mean that it pays a profit over the total estimated cost of transportation, or do you mean only that it pays some profit over the additional cost of movement of a particular traffic?

A. I mean it pays some profit over the additional cost of movement.

3. Q. How long has it been since the Southern Railway & Steamship Association was in existence?

A. Two or three years.

4. Q. Where the freight rate constitutes a large percentage of the value of an article, will the material reduction of the freight rate increase the consumption of that article?

A. It would tend to do so.

5. Q. Where the freight rate constitutes only a small percentage of the value of an article, will the reduction of the freight rate necessarily increase the consumption of the article?

A. It would not.

6. Q. Suppose it were possible to get all of the railroad lines which operate south of the Ohio and east of the Mississippi to agree to increase their rates to the competitive points so as to make them as high as their rates to noncompetitive points; what effect would such increase of the above rates have upon the traffic and the revenue of those railroads?

A. It would, in my opinion, practically exclude the rail lines from competing for traffic to competitive points, the increase in the rates causing it to be diverted to the numerous, aggressive, and in many instances uncontrollable water transportation lines.

7. Q. Can you make any approximate estimate as to what per cent of the freight revenue realized by the railroads referred to in my last question is derived from the above traffic as contradistinguished from the noncompetitive traffic?

182 A. Competitive traffic forms a very large percentage of the total traffic, but I could not approximate just what the percentage is.

8. Q. Would it be as much as fifty per cent or forty per cent or sixty per cent, in your opinion?

A. The records of the Louisville & Nashville Road would enable me to answer definitely so far as the Louisville & Nashville Road is concerned, but I do not have them with me.

9. Q. Suppose, if it were possible, that all of the railroads in the territory referred to did agree to reduce their noncompetitive rates so as not to be higher than their competitive rates—in other words, agree upon the rule in no instance to charge more for a short than a long haul—what effect would that have upon the revenue of those roads?

A. It would reduce the revenue to such an extent as to bankrupt them.

10. Q. You spoke just now about traffic being diverted from the rail lines to the water lines at competitive points. If you have any statement referring to the movement of such traffic, please file it and explain it.

A. I have a statement showing that from May 20th, 1897, to June 20th, 1897, one coastwise line handled 183 car loads of freight into Charleston, South Carolina, most of this freight having originated at western points—as far west as Minneapolis, Minnesota.

11. Q. Are the points of origin referred to in said statement south or north of the Ohio River?

A. North of the Ohio River.

12. Q. How did the traffic referred to in said statement move to the seacoast so as to be transported by the coastwise lines?

A. It moved from the points of origin to New York.

13. Q. By rail or by water?

A. I am unable to say whether it was moved all rail or part rail and part water. On business from western points to New York there is considerable competition, including the lake and canal competition.

14. Q. Do you know to what points the traffic referred to in said statement was destined?

A. It was all consigned to Charleston, and I do not know how much of it was reconsigned to interior points. Charleston, of course, is a distributing point for considerable interior territory, and it is reasonable to assume that much of it found its way to the interior.

15. Q. The said statement shows the points of origin and the number of cars and the tons, does it not?

183 A. Yes, sir.

16. Q. Please file this as Exhibit No. 2 to your deposition.

A. Yes, sir; I file it herewith.

(The statement referred to is hereto attached, marked Exhibit No. 2.)

(Counsel for the commission objects to the introduction of this statement.)

Recross-examination by Mr. SHAVER:

1. Q. Did you prepare the statement marked Exhibit No. 2, filed in connection with your answer to redirect interrogatory No. 16?

A. I did not personally prepare it.

2. Q. Have you any personal knowledge of the facts set forth in that exhibit?

A. I do not know of my own personal knowledge that the traffic moved, but it has been compiled from authentic records.

3. Q. Who compiled it?

A. The general freight agent of the Georgia Railroad.

4. Q. Did you see him prepare it?

A. No, sir; he submitted it over his personal signature.

5. Q. To you?

A. To the general freight agent of the Louisvil'e & Nashville Railroad.

6. Q. You know all that by hearsay, do you not?

A. I know it from the record that was submitted me *me* in my capacity as traffic manager of the Louisville & Nashville Railroad.

7. Q. Do not Newnan, Grantville, Hogansville, La Grange, and West Point enjoy the benefit of water transportation from New York and other Eastern cities by ocean, and West Point enjoy the benefit of water transportation from New York and other Eastern cities by ocean to Charleston and other South Atlantic ports?

A. So far as the carriage of freight up to Atlanta and Opelika are concerned Newnan, Grantville, Hogansville, La Grange, and West Point have the benefit of the competition that has compelled existing rates to Atlanta and Opelika proper.

8. Q. The bulk of the traffic from New York and other Eastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point, as well as to Atlanta and Opelika, is transported by ocean from New York and other Eastern cities to the South Atlantic ports of Charleston, etc., and thence by rail lines, is it not?

184 A. The Louisville & Nashville road does not compete for the traffic, and I have no detailed information as to via just what routes it does move.

9. Q. What water routes are there to Opelika from New York and other Eastern cities?

A. I have named the lines in my answer to one of the first direct interrogatories.

10. Q. Is Opelika or Atlanta on any navigable stream or body of water?

A. No, sir.

11. Q. Can not the part rail and part water lines from New York and other Eastern cities to Opelika and Atlanta be formed also to Newnan, Grantville, Hogansville, La Grange, and West Point, with the Atlanta & West Point and the Western Railway of Alabama as terminal carriers?

A. The lines competing for Opelika and Atlanta traffic can reach the points named in connection with the terminal lines.

12. Q. You stated in your redirect examination that to reduce the rates to the shorter distance points so as to make them as low as the rates to the longer distance points in Southern territory would bankrupt the carriers. Has it had that effect on the Eastern roads which make no greater charge for the shorter than the longer haul over their lines?

A. I do not know to what extent it has embarrassed Eastern roads, but there is no similarity between the conditions affecting the Eastern roads and Southern roads.

13. Q. Do the Eastern roads make any greater charges for the shorter than the longer haul over the same line in the same direction, the shorter being included in the longer?

A. I have no personal knowledge of the exceptions they make.

Redirect examination by Mr. BAXTER:

1. Q. Is not the rule in the territory north of the Ohio between New York and Chicago to group all of the noncompetitive stations that may be situated between two competitive stations, and to charge each and all of the noncompetitive stations the rates to the competitive station beyond?

A. It is.

Re-recross-examination by Mr. SHAVER:

1. Q. Under that rule, there is no greater charge for the shorter than the longer haul over the same line in the same direction?

A. As I said, I have no personal knowledge of the exceptions that are made.

185 2. Q. You have just stated that the rule was to make the same rates to intermediate points as to competitive points beyond, I believe.

A. I have testified that in making rates from New York to points in the territory north of the Ohio River the points are grouped, having the effect of charging to the intermediate points the same rate as to the competitive point beyond, but I do not personally know what exceptions are made to the rule.

(Witness here stated that he desired to amend his answer to cross-question No. 67, as follows):

Competition between transportation lines is not always present where there is competition between markets; as, for instance, in the making of

rates from markets of production to markets of consumption between which there is but one line and which involves competition with the product that is found or manufactured at the consuming point.

NASHVILLE, TENN., *July 11, 1897.*

C. B. COMPTON, a witness on behalf of the defendants, having been duly sworn, testified as follow':

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. C. B. Compton; age, 43; residence, Louisville, Ky.; general freight agent of the Louisville & Nashville Railroad Company.

2. Q. How long have you been engaged in the railroad freight transportation business, and in what capacity?

A. I have been continuously in the employ of the Louisville & Nashville Railroad since August 1st, 1871, in various capacities, amongst which are local freight agent, contracting freight agent, general agent, and general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of the like kinds of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, La Grange, and West Point more than to Opelika. The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, La Grange, West Point, and Opelika were in 1892 as follows:

186 [Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	78	....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	94	....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	97	....
La Grange, Ga	154	135	118	102	82	66	....	....	....	....	....	99	....
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	88	....
Opelika, Ala	114	98	86	73	60	49	36	43	40	30	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, La Grange, and West Point, so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. In my opinion, a reduction in the rates to the points named would not increase the volume of traffic while decreasing the revenue of the carrier to the extent of the reductions as made on the value of traffic moving under each of the several classes. There are but two ways of increasing the movement of traffic to a particular point: First, by an increase in the consumption at that point, and, second, by making such point a distributing or jobbing center. As to increasing the consumption at Newnan, Grantville, Hogansville, La Grange, and West Point, it stands to reason that such a result would not follow from a reduction in the rates, and if the rates to those points were reduced, such reductions would not increase the territory open for distribution.

4. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-named mentioned classes of freight from New York, Philadelphia, etc., to Opelika, Alabama.

A. You ask what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, Baltimore, etc., in transportation to Opelika, Alabama, of classified freight. It is probable that if all the combinations were named it would exceed one hundred. It may be well to enumerate the following:

187 From Boston:

Direct steamer lines to Savannah, controlled by the Ocean Steamship Company.

Lines of steamers and rail lines to New York, connecting with direct steamer lines from New York to Norfolk, Richmond, West Point, Charleston, Savannah, and Brunswick.

And also the Merchants & Miners' Transportation Company from Boston to Norfolk and West Point and to Baltimore.

At Baltimore the Merchants & Miners' Transportation Co. connects with its line of steamers to Savannah.

From New York:

The Ocean Steamship Company to Savannah.

The Clyde Line to Charleston.

The Mallory Line to Brunswick.

The Old Dominion Steamship Company to Norfolk.

The Old Dominion Steamship Company to Portsmouth.

The Old Dominion Steamship Company to West Point and Richmond.

The Pennsylvania Railroad via Harrisburg and Hagerstown.

The Pennsylvania Railroad via Alexandria.

The New Jersey Central Railroad, in connection with the Reading Railroad, via Hagerstown.

The New Jersey Central Railroad, in connection with the Baltimore & Ohio Railroad, via Baltimore.

From Philadelphia:

The Ocean Steamship Company to Savannah,

The Clyde Line to Charleston,

The Pennsylvania Railroad via Norfolk,

The Pennsylvania Railroad via Alexandria,

The Pennsylvania Railroad via Hagerstown,

The Baltimore & Ohio Railroad via Baltimore, and

The Baltimore & Ohio Railroad via Shenandoah Junction.

From Baltimore:

The Bay Line of steamers to Norfolk.

The Merchants & Miners' Transportation Co. to Savannah.

The Eastern Maryland Railroad via Hagerstown.

The Baltimore & Ohio Railroad via Shenandoah Junction.

The Baltimore & Potomac Railroad via Alexandria.

In addition to the regular lines, some of which have been named above, actively competing from Eastern cities, there should be considered the sailing vessels from Boston, New York, Philadelphia, and Baltimore to south Atlantic ports.

188 I have named above the different initial lines competing in connection with the various rail connections to Atlanta.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from other cities than New York and Philadelphia.

A. You ask what lines actually and actively competed in 1892 and now compete for the transportation of classified freights to Opelika from other cities than New York, Philadelphia, etc. I understand from the question that you refer to the Ohio River cities, and my answer is as follows:

From Cincinnati:

Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, thence Southern Railway and the Atlanta & West Point Railroad.

The Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, thence via the Western & Atlantic and the Atlanta & West Point Railroad.

The Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, thence via the Alabama Great Southern Railroad to Birmingham, thence via Central Railroad of Georgia.

Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

The Louisville & Nashville Railroad to Birmingham, thence via Central Railroad of Georgia.

The Louisville & Nashville Railroad to Montgomery, thence via Western Railway of Alabama.

The Louisville & Nashville Railroad to Montgomery, thence via Central Railroad Company of Georgia.

Baltimore & Ohio Southwestern Railroad to Louisville, Illinois Central to Memphis, Memphis & Charleston to Chattanooga, Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

Baltimore & Ohio Southwestern to Louisville, Illinois Central Railroad to Memphis, Memphis & Charleston to Chattanooga, Western & Atlantic to Atlanta, thence via Atlanta & West Point Railroad.

The Baltimore & Ohio Southwestern to Louisville, Illinois Central Railroad to Memphis, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus Railroad to Kramer, Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

189 The Baltimore & Ohio Southwestern to Louisville, Illinois Central Railroad to Memphis, Kansas City, Memphis & Birmingham Railroad, thence via Central Railroad of Georgia.

From Louisville:

The Louisville & Nashville to Birmingham, thence via Central Railroad of Georgia.

The Louisville & Nashville Railroad to Montgomery, thence via Western Railway of Alabama.

The Louisville & Nashville Railroad to Montgomery, thence via Central Railroad of Georgia.

The Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific

Railroad to Chattanooga, Western & Atlantic Railroad to Atlanta, thence via Atlanta & West Point Railroad.

Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific Railroad to Chattanooga, Chattanooga, Rome & Columbus to Kramer, Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

The Illinios Central to Memphis, Memphis & Charleston to Chattanooga, Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central Railroad to Memphis, Memphis & Charleston to Chattanooga, the Western & Atlantic to Atlanta, thence via Atlanta & West Point Railroad.

The Illinois Central to Memphis, the Memphis & Charleston Railroad to Chattanooga, Chattanooga, Rome & Columbus Railroad to Kramer, the Southern Railway to Atlanta, thence via Atlanta & West Point Railroad, and

The Illinois Central Railroad to Memphis, Kansas City, Memphis & Birmingham Railroad to Birmingham, thence via Central Railroad of Georgia.

From Evansville & Henderson:

The Louisville & Nashville Railroad to Birmingham, thence via Central Railroad of Georgia.

The Louisville & Nashville Railroad to Montgomery, thence via Western Railway of Alabama.

The Louisville & Nashville Railroad to Montgomery, thence via Central Railroad of Georgia.

The Ohio Valley Railroad to Princeton, the Illinois Central to
190 Memphis, Memphis & Charleston to Chattanooga, the Southern Railway to Atlanta, thence via Atlanta & West Point Railroad.

Ohio Valley Railroad to Princeton, the Illinois Central to Memphis, the Memphis & Charleston to Chattanooga, the Western & Atlantic Railroad to Atlanta, thence via the Atlanta & West Poist Railroad.

The Ohio Valley Railroad to Princeton, the Illinois Central Railroad to Memphis, Memphis & Charleston Railroad to Chattanooga, Chattanooga, Rome & Columbus Railroad to Kramer, the Southern Railway to Atlanta, thence via the Atlanta and West Point Railroad.

The Ohio Valley Railroad to Princeton, the Illinois Central Railroad to Memphis, the Kansas City, Memphis & Birmingham, thence via Central Railroad of Georgia.

From Paducah:

Nashville, Chattanooga & St. Louis Railway to Nashville, Louisville & Nashville Railroad to Birmingham, thence via Central of Georgia Railroad.

The Nashville, Chattanooga & St. Louis Railway to Nashville, the Louisville & Nashville Railroad to Montgomery, thence via the Western Railway of Alabama.

The Nashville, Chattanooga & St. Louis Railway to Nashville, the Louisville & Nashville Railroad to Montgomery, thence via the Central of Georgia Railroad.

The Illinois Central to Memphis, the Memphis & Charleston Railroad

to Chattanooga, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central Railroad to Memphis, the Memphis & Charleston Railroad to Chattanooga, the Western & Atlantic Railway to Atlanta, thence via Atlanta & West Point Railroad.

The Illinois Central Railroad to Memphis, the Memphis & Charleston to Chattanooga, the Chattanooga, Rome & Columbus Railroad to Kramer, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central Railroad to Memphis, Kansas City, Memphis & Birmingham Railroad to Birmingham, thence via the Central of Georgia Railroad.

From Cairo:

The Nashville, Chattanooga & St. Louis Railway to Nashville, the Louisville & Nashville Railroad to Birmingham, thence via Central of Georgia Railroad.

The Nashville, Chattanooga & St. Louis Railway to Nash-
191 ville, the Louisville & Nashville Railroad to Montgomery, thence via Western Railway of Alabama.

The Nashville, Chattanooga & St. Louis Railway to Nashville, the Louisville & Nashville Railroad to Montgomery, thence via the Central of Georgia Railroad.

The Illinois Central Railroad to Grand Junction, the Memphis & Charleston to Chattanooga, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central Railroad to Grand Junction, the Memphis & Charleston Railroad to Chattanooga, the Western & Atlantic Railroad to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central Railroad to Grand Junction, the Memphis & Charleston to Chattanooga, the Chattanooga, Rome & Columbus Railroad to Kramer, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Illinois Central to Holly Springs, the Kansas City, Memphis & Birmingham Railroad to Birmingham, thence via the Central of Georgia Railroad.

The Illinois Central Railroad to Winona, the Southern Railway to Birmingham, thence via the Central of Georgia.

The Illinois Central Railroad to Jackson, the Atlanta & Vicksburg to Meridian, the Southern Railway to Selma, thence via the Western Railway of Alabama.

The Illinois Central Railroad to Jackson, the Southern Railway to Meridian, the Alabama Great Southern to Birmingham, thence via the Central of Georgia Railroad.

The Mobile & Ohio Railroad to Corinth, the Memphis & Charleston Railroad to Chattanooga, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Mobile & Ohio Railroad to Corinth, the Memphis & Charleston Railroad to Chattanooga, the Western & Atlantic Railroad to Atlanta, thence via the Atlanta & West Point Railroad.

The Mobile & Ohio Railroad to Corinth, the Memphis & Charleston Railroad to Chattanooga, the Chattanooga, Rome & Columbus Railroad

to Kramer, the Southern Railway to Atlanta, thence via the Atlanta & West Point Railroad.

The Mobile & Ohio Railroad to Tupelo, the Kansas City, Memphis & Birmingham Railroad to Birmingham, thence via the Central of Georgia Railroad.

The Mobile & Ohio Railroad to West Point, the Southern Railway to Birmingham, thence via the Central of Georgia Railroad.

The Mobile & Ohio Railroad to Lauderdale, the Southern
192 Railway to Selma, thence via the Western Railway of Alabama.

The Mobile & Ohio Railroad to Meridian, the Alabama Great Southern to Birmingham, thence via the Central of Georgia Railroad.

The lines actually and actively competing in the transportation of classified freight to Opelika from sections of the country other than Ohio River points, and other than New York, Philadelphia, etc., are too numerous to mention, comprising all roads north of the Ohio and west of the Mississippi rivers, in connection with the various routes already named from the Ohio River crossings.

6. Q. State whether the rates on the above-mentioned classes of freight from New York, Philadelphia, via Charleston, Augusta, and Atlanta to Opelika are controlled to any, and if so, to what, extent by competition.

A. The rates from New York, Philadelphia, etc., to Opelika are made by coastwise steamers and sailing vessels to South Atlantic coast points and thence by rail to Opelika. Through rates so fixed are operated by the numerous routes which actively compete with each other for traffic, and it may be said, therefore, that the rates on classified freights from New York, Philadelphia, etc., to Opelika are controlled entirely by competition.

7. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, and West Point are just or unjust, reasonable or unreasonable. Please give your reasons for any opinion you may express.

A. In my opinion, said rates are just and reasonable. They are just and reasonable because they are based on either Atlanta or Opelika, and under them business from New York, Philadelphia, etc., moves freely and in competition with other markets, and for the further reason that they are as low as can be obtained by any other mode of transportation.

8. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. The competition between carriers whether by rail or by water substantially affects the circumstances and conditions under which the transportation of freight is conducted. To illustrate, the short-line distance from Cincinnati to Lexington, Kentucky, is via the Cincinnati, New Orleans, and Texas Pacific Railroad, the distance being eighty-two miles; the line of the Louisville & Nashville Railroad being one hun-
193 dred and fifty miles via Lagrange, Kentucky. It is a self-evident proposition that if the Louisville & Nashville Railroad wishes to compete in the handling of the traffic from Cincinnati to Lexington, it must do so at no higher rates than those made by the Cincinnati, New Orleans & Texas Pacific Railroad over the short line. The

effect of this, so far as the Louisville & Nashville Railroad may be concerned, is that by reason of meeting from Cincinnati to Lexington the rates made by the Cincinnati, New Orleans & Texas Pacific Railroad it is necessary to make on the Lexington combination to some points on the Louisville & Nashville Railroad near by Lexington less rates than would otherwise be applied.

Again, the rates from Louisville, Kentucky, to Paducah, Kentucky, all rail, are made in competition with steamboats plying on the Ohio River, the cheap water transportation fixing the maximum rates that can be charged by the all-rail lines; that is to say, unless the all-rail lines meet the all-water competition, they would not be able to enjoy any portion of the traffic moving from Louisville to Paducah. The effect of this is to make the rates to points near by Paducah on the all-rail lines on the Paducah combination less than would otherwise be applied, though without direct water competition themselves, they have the benefit of water competitive rates for much the greater portion of the haul.

9. Q. State whether the number of tons carried one mile, or the number of tons carried of freight-earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile, can either jointly or separately be used as a standard in railroad rate making.

A. The number of tons carried one mile, or the number of tons carried of freight-earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile can not be used, either singly or together, as the standard in railroad rate making.

For example, when called upon to make a line of rates from a given point to another, it is necessary to establish rates on all classes that would or could move. Having no possible means of determining the relative tonnage that might move in each class, or of averaging the total tonnage that might move in all classes, or of determining what proportion such tonnage under all the classes would be of the entire tonnage handled by the roads during any given period of time, the rate per ton per mile, could not in any way be considered in fixing such rates.

10. Q. Do you know or can you set forth any other matter or
194 thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Cross-examination by Mr. SHAVER:

1. Q. I notice, Mr. Compton, that in answering the direct interrogatories, you read from a manuscript before you. How long have you had the interrogatories in this case?

A. I can not give you the exact date that I first saw the interrogatories, but I would say about two weeks.

2. Q. How long ago did you prepare these answers?

A. These answers were prepared from data worked up by me personally after the receipt of the interrogatories from Mr. Baxter.

3. Q. You say that a named reduction in rates to Newnan, Grantville, Hogansville, Lagrange, and West Point would not, in your opinion, increase the business to those points, I believe, did you not?

A. I did.

4. Q. Would not such reductions make the rates to those points not higher than the rates to Opelika and Atlanta?

A. They would.

5. Q. Is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. I do not quite understand what you mean by a "material reduction" in rates. However, I would say that a reduction in the rates to Newnan, Grantville, Hogansville, Lagrange and West Point to the same as the rates in effect to Opelika would not increase the traffic.

6. Q. Is not the natural tendency of a material reduction in rates to a given point towards the encouragement and the investment of capital at said point and the increase of its population?

A. I do not believe that a reduction in the rates from New York, Philadelphia, etc., to Grantville, Newnan, Hogansville, Lagrange and West Point to the same figures as in effect to Opelika would increase the population at either of those points.

7. Q. Would not the tendency be to increase the population and also encourage the investment of capital there?

A. I think not.

8. Q. The rate on first-class traffic from New York over the
195 line involved in this case to Lagrange is $1.54 and for the haul through Lagrange on to Opelika it is $1.14, making a difference of forty cents in favor of Opelika. Would not a reduction of forty cents be a material reduction, in your opinion?

A. In my opinion, a reduction in the rates from New York to Lagrange, Georgia, of forty cents per hundred pounds, which is equal to 26%, would be a material reduction in the rate.

9. Q. Is not the natural effect of unfavorable rates to or discrimination against a given point to injure the mercantile and other business interests of such point and to prevent and retard its growth and prosperity?

A. In my opinion an unjust discrimination in the adjustment of rates to a given point would have a tendency to retard the growth of a town or city.

10. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. In my opinion, if two cities are situated substantially similarly, an unjust or unfair adjustment in rates in favor of one as against the other would have the effect of hurting the mercantile interests of the other.

11. Q. Do not merchants at Opelika trade at West Point and Lagrange and in adjacent territory in competition with local merchants at West Point and Lagrange?

A. I have no personal knowledge of the extent to which the merchants at Opelika would sell goods to the points named; but I would say that it is reasonable to assume that the merchants at Opelika would sell goods to the merchants at the points named.

12. Q. Will not a reduction of rates from New York and other Eastern cities to West Point and Lagrange, so as to make them not higher than the rates on the haul from those cities through West Point and Lagrange to Opelika, enable the merchants at West Point and Lagrange

to compete more successfully with the merchants at Opelika for business at West Point and Lagrange than under the existing system of rates?

A. In my opinion a reduction in the rates from New York to the points named would not increase the value of the traffic nor would the reduction enable the merchants at those points to increase their trade.

13. Q. My question was whether it would enable those local merchants at West Point and Lagrange to compete more successfully with
196 the Opelika merchants for the business at West Point and Lagrange and in surrounding territory. What is your opinion about that?

A. The territory tributary to the points named is circumscribed, and in my opinion a reduction in the rates would not materially affect the business done at those points.

14. Q. Is that the only answer you can give to that question?

A. Yes, sir.

15. Q. Do not merchants at Atlanta trade at Newnan, Grantville, Hogansville, and in adjacent territory in competition with local merchants at those points?

A. I do not know from personal knowledge to what extent Atlanta sells goods to merchants at the points named, but it is reasonable to suppose that Atlanta does sell goods to the merchants at the points named. I do not believe that the merchants in Atlanta sell goods to consumers at the points named in competition with the merchants at the points named.

16. Q. Would not rates to Newnan, Grantville, Hogansville, Lagrange, and West Point from New York and other Eastern cities not higher than the rates to Opelika and Atlanta cause the merchants at those intermediate points to obtain their supplies direct from New York and other Eastern cities instead of obtaining them, as they now do to a certain extent, from Atlanta and Opelika?

A. It is my understanding that the merchants at Grantville, Hogansville, Lagrange, and West Point do now purchase goods direct from New York, Philadelphia, etc., and I do not believe that they would trade to any greater extent with New York, Philadelphia, and Baltimore if the rates were reduced than they do at the present time.

17. Q. What is your reason for that belief?

A. The reason for that belief is that the consumption would not be increased. The rates from the East are made on the rate to Atlanta or Opelika with locals added, with the exception to the rates to Lagrange. The rates being thus made gives to the merchant at the point named the benefit of the competition to Atlanta or the competition to Opelika.

18. Q. You stated that it was your opinion that the Atlanta merchants did not sell goods to consumers at Newnan, Grantville, and Hogansville, but to the merchants at those points. If the merchants at those points could get their goods at the same rates from New York and other Eastern cities as the merchants at Atlanta get them, would not that tend to prevent the merchants at Newnan, Grantville, and Hogansville
197 from buying their goods from Atlanta to the extent which you say they now do?

A. If the rates from New York, Philadelphia, Baltimore, etc., were made the same to Grantville, Hogansville, Lagrange, and West Point, as to Atlanta and Opelika, the merchants at those points might purchase

in greater volume from such cities than they do at present, but in my opinion the merchants at the points named would not all buy direct from eastern cities, because the merchants at Atlanta are enabled on account of their location to give more prompt shipment than in the case from the merchant from the East.

19. Q. Do not goods from New York and other Eastern cities on the route involved in this case have to be shipped through these intermediate points to Opelika?

A. Yes, sir.

20. Q. Is not that the route by which the bulk of the traffic comes from New York and other Eastern cities to Opelika?

A. The Louisville & Nashville Railroad, with which I am connected, does not compete for business from New York, Philadelphia, and Baltimore to Opelika, Alabama, and therefore I am unable to give a specific answer to your question.

21. Q. Do not rates enter into and affect the price of goods?

A. I do not believe that a reduction in the rates of first-class goods from New York to the points named to the same figures as in effect to Opelika would affect the price at which goods would be sold by merchants at Grantville, Hogansville, etc.

22. Q. I did not ask you in reference to Grantville, Hogansville, etc., but my question was general. As a general proposition, do not rates enter into and affect the price of goods?

A. I do not believe that I can give you a specific answer to a general question. But my answer to the interrogatory just propounded is given in the particular case involved.

23. Q. Are you unable to answer this general question?

A. To give an answer to a general question would be very hard to do; but if a material reduction in the rates on flour, meal, or grain to any given point were made, I would answer that a reduction in the rates might affect the price of the same.

24. Q. Do not lower prices bring goods within the reach of a greater number of people and thus increase the consumption of such goods?

A. I do not believe that a reduction in the rates would increase the consumption.

198 25. Q. That is not an answer to my question. I ask you if lower prices of goods do not bring those goods within the reach of a greater number of people and thus increase the consumption of the goods?

A. I do not believe that the consumption of goods can be increased; therefore, a reduction in the rates would not make any material change.

26. Q. In your direct examination you named a number of lines from New York and other cities which could be formed to Opelika, and which you state compete for business to Opelika. Can not all those lines be formed also to Newnan, Grantville, Hogansville, Lagrange, and West Point by combinations with either the Atlanta & West Point Railroad or the Western Railroad of Alabama as terminal carriers?

A. The lines that I have named as competing for business from New York, Philadelphia, and Baltimore to Atlanta and Opelika could not, in my opinion, all compete for traffic to Grantville, Hogansville, Lagrange, and West Point.

27. Q. I did not ask whether they could all compete, but whether they could all be formed by combination with the Western Railway of Alabama or the Atlanta & West Point Railroad as the terminal carriers?

A. Yes, sir.

28. Q. You stated that a hundred combinations, or that combinations exceeding a hundred, might be made from New York and other Eastern cities to Opelika. Can not the same number of combinations be made to these intermediate points?

A. Yes, sir.

29. Q. Is not the number of combinations, if you go far enough around from the direct route, of lines which can be made between two given points almost unlimited?

A. Yes, sir.

30. Q. Do not all the lines that you have named from New York and Eastern cities to Opelika have the same rates to Opelika?

A. It is my information that all the lines leading from New York and Philadelphia and Baltimore have in effect the same rate to Opelika?

31. Q. Have not all those lines the same rates to Newnan, Grantville, Hogansville, Lagrange, and West Point respectively?

A. Yes, sir.

32. Q. Is not traffic transported over those lines from New York and Eastern cities to Newnan, Grantville, Hogansville, Lagrange, and West Point under through bills of lading and under through rates?

199 A. That is my information.

33. Q. What are your duties as general freight agent of the Louisville & Nashville road?

A. My duties as general freight agent of the Louisville & Nashville road, under the direction of its traffic manager, is to supervise its freight traffic and to make rates on freight traffic.

34. Q. Are not rates necessarily expressed in figures?

A. Yes, sir.

35. Q. In making up a rate to a given point—for instance, from New York to Opelika, which has a rate of $1.14 on first-class traffic—do you not first determine in figures or numbers what is the cost of carriage?

A. The Louisville & Nashville Railroad does not compete for business from New York, Baltimore, and Philadelphia to Opelika.

36. Q. In determining what the rate shall be between two points on the Louisville & Nashville road, do you not first ascertain in figures or numbers the cost of the service of carriage?

A. The cost of the transportation of freight is an unknown quantity; it would therefore be impossible to consider the cost in connection with fixing a rate.

37. Q. You stated in your direct examination that the rates involved in this case from New York and Eastern cities to Newnan, Grantville, Hogansville, Lagrange, and Westpoint were reasonable, and as grounds for that opinion you stated that the traffic moved freely under them and they were as low as could be obtained by any other mode of transportation. What other mode of transportation did you refer to or have in mind?

A. I had in mind transportation by any mode other than that known as common carriers.

38. Q. Did you have in mind transportation by wagons and teams?

A. Yes, sir.

39. Q. In your opinion, is not the test of the reasonableness of the rate whether traffic will move under it and be not diverted from the road or line charging the rate to another road or line?

A. In giving my answer as to the reasonableness of a rate I did not consider the effect of diverting to other lines. I believe a rate is just and reasonable when it permits the free movement of traffic.

40. Q. Are the rates from New York over the line involved
200 in this case for the haul through Newnan, Grantville, Hogansville, Lagrange, and Westpoint to Opelika just and reasonable considered from the standpoint of the carrier—that is, do they pay the cost of the service of carriage and, in your opinion, yield the carrier a reasonable compensation over and above the cost?

A. In my opinion, the rates from New York to Newnan, Grantville, Hogansville, Lagrange, and Westpoint are just and reasonable from the standpoint of the carrier. As to what profit over and above the expense of transportation they yield to the line involved I can not answer—whether they yield a profit or whether they do not yield a profit—having no personal connection with that carrier or any means of ascertaining.

41. Q. Is a rate, in your opinion, reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of service?

A. Speaking as a representative of the Louisville & Nashville Railroad, I have no knowledge of that company having transported property at less than the cost of transportation.

42. Q. Is that the only answer you can give to that question?

A. I would say that any line transporting business at less than the cost of transportation would be making an unreasonably low rate.

43. Q. Is not, therefore, the expense of the service of carriage an element to be considered in determining whether a rate is a reasonable rate or not in and of itself?

A. In the transportation of the immense volume of traffic of the Louisville & Nashville Railroad it is impossible to determine how much traffic would move between any two points in any class or classes, and therefore it is apparent that it is impossible to reach any definite conclusion as to what the cost of carriage would be.

44. Q. Is it, in your opinion, impossible to determine whether a given rate yields a carrier anything in excess of the cost of the service of carriage?

A. In my opinion, it is impossible to ascertain the cost of carriage.

45. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Yes, sir.

46. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

201 A. Do I understand what you mean by "other things being equal?"

47. Q. Well, the rate of speed being the same.

A. There might be a great many things taken into consideration. For instance, you might take a railroad that was five hundred miles in length with no grades and have all large trains, and the cost of carriage over that road for five hundred miles might be considerably less than the cost of carriage over a line, say, passing through a mountainous country where the trains have a less number of cars, larger engines being required, the consumption of fuel greater, and the probability of the control of such trains requiring the railroad companies to employ additional help.

48. Q. The phrase "other things being equal" was intended to cover all those features. Will it not require twice the length of time to haul a train one hundred miles than it will require to haul it fifty miles, the rate of speed being the same in both hauls?

A. Yes, sir.

49. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Other things being equal, yes, sir.

49½. Q. Other things being equal, is not the wear and tear on locomotives, cars, tracks, roadbed, etc., greater the greater the length of the haul?

A. Yes, sir; but not proportionately.

50. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. Yes, sir; but not proportionately.

51. Q. Other things being equal, does it not require more locomotives and cars and crews for running trains on a long road than on a short one?

A. Yes, sir; but not proportionately.

52. Q. Does not distance add to the cost of building a road and are not, therefore, fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. The conditions with regard to the construction of railroads are entirely different.

53. Q. I said other things being equal.

A. I do not believe it is possible to have an absolute equality in a case of that kind.

54. Q. Does it not cost more to build a road through the
202 same kind of country and at the same grade one hundred miles than fifty miles?

A. No, sir.

55. Q. Are not the rates from New York and other Eastern cities to Newnan, Grantville, Hogansville, Lagrange, and Westpoint made up of the through rates to either Atlanta or Opelika and the local rates either on from Atlanta or back from Opelika, as the case may be, to those intermediate *point* points?

A. The rates from New York, Baltimore, and Philadelphia to Grantville, Hogansville, Lagrange, and Westpoint are arrived at by using the rate from said Eastern cities to Atlanta plus the locals thence, or the rates from the said Eastern cities plus the local rate to Opelika. The rate to Newnan, Georgia, is not made up of the sums of the rate to Atlanta, the local thence, or the rate to Opelika plus the local thence, but is made on first class $1.31. I am not familiar with the construction of the rate to Newnan.

56. Q. Which of those points, Newnan, Grantville, Hogansville, Lagrange, and Westpoint, are on more than one road?

A. Lagrange, Georgia, is on the Atlanta & West Point Railroad and the Macon & Birmingham Railroad.

Newnan, Georgia, is on the Atlanta & West Point Railroad and the Central of Georgia Railway.

57. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than for the same distance on the long through hauls?

A. Yes, sir.

58. Q. Are not the rates to Atlanta and Opelika the same as they were during the existence of the Southern Railway & Steamship Association?

A. Yes, sir.

59. Q. Were they not originally established by agreement between the carriers composing the lines as members of the Southern Railway & Steamship Association?

A. The rates from Eastern cities to Opelika and Atlanta were fixed by the lines which were members of the Southern Railway & Steamship Association.

60. Q. Are not the rates to Newnan, Grantville, Hogansville, Lagrange, and Westpoint the same as they were during the existence of the Southern Railway & Steamship Association?

A. That is my information.

61. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. Twenty-six years.

203 62. Q. Has the greater charge for the shorter than the longer hauls over the same line in the same direction, the shorter being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce in 1887, except in cases of competition in transportation to the longer distance point?

A. Not to my knowledge.

Redirect examination by Mr. BAXTER:

1. Q. You were asked in cross-question No. 54:

"Does it not cost more to build a road through the same country at the same grade one hundred miles than fifty miles?" and your answer was, "No, sir."

Would not that depend upon whether the roads were of the same gauge, constructed with the same weight of rails, cars, ties, etc., and equipped with the same kind of engines and cars, and built at the same cost of labor and materials?

A. In my answer to cross-interrogatory No. 54 I no doubt misunderstood the question. I would say that it would cost more to build a railroad one hundred miles in length than a railroad fifty miles in length, through the same class of country and the same gauge of road, requiring the same class of equipment with labor the same in both cases.

NASHVILLE, TENN., *July 15, 1897.*

JOSEPH M. BROWN, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. Joseph M. Brown; 42nd birthday; my personal residence is Marietta, Georgia, and my official residence is Atlanta, Georgia; ocrupation, traffic manager of the Western & Atlantic Railroad.

2. Q. How long have you been connected with the railroad freight transportation business in the United States, and in what capacities?

A. Since the first of January, 1877. I went into the service as freight clerk and filled a number of subordinate positions, as freight conductor, lost car agent, and as inspection agent here at Nashville, claim agent, car accountant, general freight agent, general freight and passenger agent, and traffic manager.

204 3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, Lagrange, and West Point, more than to Opelika.

The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta, to Newnan, Grantville, Hogansville, Lagrange, West Point, and Opelika were, in November, 1892, as follows:

[Rates in cents per 100 pounds.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	....	73
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	....	94
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	....	97
Lagrange, Ga	154	135	118	102	82	66	....	....	....	....	....	....	98
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	....	88
Opelika, Ala	114	98	86	73	60	49	36	48	46	39	58	68	73

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, Lagrange, and West Point, so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. The application of the Opelika rates to Atlanta and West Point stations mentioned in your question, I do not think would have the effect of increasing the movement of traffic to any appreciable extent. I am led to believe by experience and observation that whatever increased business should move would not make up for the loss of revenue which the reduction would bring. The merchants and consumers at each of the points mentioned are guided by the law of supply and demand, and a general reduction of the plane of rates would not be attended by a corresponding increase of traffic.

4. Q. State what transportation lines actually and actively competed in 1892, and now compete, for the transportation of the above-mentioned classes of freight from New York, Philadelphia, etc., to Opelika, Alabama?

A. The Clyde line.
205 The Mallory Line,
The Old Dominion Steamship Company,
The Ocean Steamship Company,
The Merchants' & Miners' Transportation Company,
The Bay Line.
Those are the water lines.
The rail lines are:
The Seaboard Air Line,
The Norfolk & Western Railroad,
The Atlantic Coast Line,
The Richmond & Danville Division of the Southern Railway,
The Pennsylvania Railroad,
The Baltimore & Ohio Railroad,
The Cumberland Valley Railroad,
The Philadelphia & Reading Railroad,
The South Carolina Railroad (now termed the South Carolina & Georgia),
The East Tennessee, Virginia & Georgia Division of the Southern Railway,
The Central Railroad of Georgia,
The Savannah, Americus & Montgomery Railroad,
The Atlanta & West Point Railroad, and
The Western Railway of Alabama.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from cities other than New York and Philadelphia.

A. The following transportation lines actually and actively competed in 1892 and now compete for the transportation of freight in classes 1 to H, inclusive, to Opelika from cities other than New York and Philadelphia:
The Louisville & Nashville Railroad,
The Nashville, Chattanooga & St. Louis Railway,
The Cincinnati, New Orleans & Texas Pacific Railway,
The Louisville Southern Railroad,
The Ohio Valley Railroad,
The Alabama Great Southern Railroad,
The Newport News and Mississippi Valley Company,
The Illinois Central Railroad Company,
The Mobile & Ohio Railroad,
The Memphis & Charleston Railroad,
The Kansas City, Memphis & Birmingham Railroad,
The Yazoo & Mississippi Valley Railroad,
The Georgia Pacific Division of the Southern Railway,
The New Orleans & Northeastern Railroad,
206 The Macon & Birmingham Railroad,
The Western Railway of Alabama, and
The Central of Georgia Railway.

6. Q. State whether the rates on the above-mentioned classes of freight from Philadelphia, New York, etc., via Charleston, Augusta, and Atlanta to Opelika are controlled to any, and if so to what, extent by competition.

A. The rates of freights on classes 1 to H, inclusive, are controlled by competition from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Opelika. The extent is considerable; it is the competition of carriers, markets, and products.

7. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, and West Point are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. I consider the rates via the routes mentioned just and reasonable. They are made on the lowest existing combination. The through rates to Atlanta and Opelika are controlled by the competition of carriers, all rail and rail and water, and the competition of products and the markets are the productions of numerous considerations, circumstances, and conditions. The figures are reasonable and just. The proportions are prescribed by the Georgia railroad commission. They were constructed with regard to varied influences, and in our opinion are just and reasonable.

8. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. A competition between carriers by either rail or water substantially affects the circumstances and conditions under which the transportation of freight is conducted.

9. Q. State whether or not there is any such competition at Newnan, Grantville, Hogansville, Lagrange, and West Point as affects rates like the competition which exists at Opelika.

A. There is no such competition existing at Newnan, Grantville, Hogansville, Lagrange, and West Point to affect the rates like the competition which exists at Opelika.

10. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this,
207 your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I know nothing else material to the issue.

Cross-examination by Mr. SHAVER:

1. Q. Were not the rates in 1892 from New York and other Eastern cities to Atlanta and Opelika the same?

A. I believe they were.

2. Q. If the rates to the intermediate points between Atlanta and Opelika, Newnan, Grantville, Hogansville, Lagrange, and West Point were reduced so as to make them not higher than the Atlanta and Opelika rates, would not the tendency of such reductions be to benefit the merchants at those intermediate points?

A. I do not know that there would be any appreciable benefit.

3. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. If the conditions surrounding each of those points are exactly the

same, I should say that such preferences would hurt the one and favor the other if the conditions were exactly the same.

4. Q. Would not rates which benefit the merchants at a locality also, indirectly at least, benefit the population of that locality generally?

A. Well, that would not always follow. It might help the merchants a little, but being distributed about over so many items, to such a minute degree, it would probably not benefit the general public at all.

5. Q. Does not the prosperity of the road depend more upon the prosperity of the local stations on its entire line than on that of the few widely separated trade centers or competitive points?

A. I do not know that I could say that it would. Take the Western & Atlantic Road, for instance. We have during my twenty years of service on it, endeavored by all means in our power to build up the interests of the local stations as far as we consistently could, and in spite of all the nursing we could do, the proportion of the business to and from the local stations on the Western & Atlantic Railroad is very small as compared with that to Atlanta. You would be surprised, I think, to see how small it is.

208 6. Q. The rate from New York and Philadelphia on first-class goods to Lagrange is $1.54 per hundred pounds, while for the longer haul through Lagrange to Opelika it is only $1.14, making a difference of forty cents in favor of Opelika. Is that not a material difference in the rates?

A. That is quite a considerable difference. I do not know that it affects the power of either one of those cities in its ability to interfere with the proper trade of the other, considering the distance they are apart, and the fact that the competition at Opelika as a semidistributing point against the other point named, which simply distributes wagon trade, you may say, around it. If it were increased ten cents higher or reduced twenty cents or thirty cents lower, or forty cents lower, I do not suppose it would enable the local station to sell more plows or more hats than the people want or need anyhow.

7. Q. When goods are cheaper, is there not a greater consumption of them even by the same population than when they are higher?

A. Not always.

8. Q. When the price of goods is lower, does it not bring them within the reach of more people than when the price is higher?

A. To a limited degree. There are some classes of freight, though, I do not know that the people would take any more of them, no matter what the price is. For instance, I do not think I would buy more than one hat if the price was brought down from a dollar to ten cents. I just need one hat. That will do me.

9. Q. Do not rates affect and enter into the price of goods?

A. Well, to some extent it does, and to some extent it has no appreciable effect whatever.

10. Q. Can not all the lines which you name in your direct examination as running and competing for the business from New York and other Eastern cities to Opelika, also be formed to Newnan, Grantville, Hogansville, Lagrange, and West Point by combinations with either the Atlanta & West Point or the Western Railway of Alabama as terminal carriers?

A. If the terminal carriers named considered that they could afford it and consented for the other lines to do it, why, that could be done.

11. Q. Is not traffic transported from New York and other Northeastern cities to Newnan, Grantville, Hogansville, Lagrange, and West Point under through rates?

A. Yes, sir; I should say that whatever rates go over more than one road might be called through rates.

209 12. Q. The rates to those points involved in this case are through rates, are they not?

A. Under that kind of a definition, they are.

13. Q. You have stated that the rates from New York and Philadelphia to Newnan, Grantville, Hogansville, Lagrange, and West Point were, in your opinion, reasonable in and of themselves, I believe?

A. Yes, sir.

14. Q. Are the materially lower rates from New York and Philadelphia for the longer haul through those intermediate points to Opelika also, in your opinion, just and reasonable in and of themselves?

A. Considering the circumstances under which they are made, I should say those rates are just and reasonable.

15. Q. Would higher rates be charged from New York, Philadelphia, etc., to Opelika but for competition?

A. They certainly would.

16. Q. Is not a rate, in your opinion, under which traffic will move and which is not so high as to divert the traffic to other roads or lines, a reasonable rate?

A. I should think that was a reasonable rate in general.

17. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of service and carriage?

A. I should say not. If carried for less than cost, it would be unreasonably low.

18. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first ascertaining the cost or expense of the service of carriage?

A. Well, it is very hard to determine regarding each particular shipment; probably it is impossible to determine regarding each particular shipment, whether it, considered by itself, is remunerative or not. There are so many conditions attending the running of trains and so many cars that an engine can carry, and things of that kind, that I do not see how we can lay down a general rule that would cover the case.

19. Q. Is not the expense of the service of carriage an element to be considered in determining whether a rate or set of rates is reasonable?

A. In general, yes.

20. Q. Does not the cost or expense of the service of transportation depend largely, or to some extent, on the length of the haul, other things being equal?

A. Well, I should say that is a factor.

210 21. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Necessarily so, other things being equal.

22. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. As a general proposition, yes.

23. Q. Other things being equal, is not the wear and tear on locomotives, cars, tracks, road bed, etc., greater the greater the length of the haul?

A. Yes, sir; the more miles to be traversed the more the wear and tear on the tracks and things of that kind, as a general proposition.

24. Q. Other things being equal, is not the cost of keeping the road in repair, or in good condition, greater the length of the road?

A. All other things being equal, I should say so.

25. Q. Other things being equal, does it not require more locomotives and cars and crews for the running of trains on a long road than on a short one?

A. That would vary with the length of the road quite materially.

26. Q. Other things being equal, does not distance add to the cost of building a road and are not therefore the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. The character of the country being the same, whether a plain country or mountainous, I should say so.

27. Q. How long have you been engaged in the railroad business east of the Mississippi River and south of the Virginias and the Ohio River?

A. Something over twenty years.

28. Q. Has the greater charge for the shorter than the longer hauls, over the same line, in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory, except in cases of competition in transportation to the longer distance points?

A. I do not know that it has, sir, of my own observation.

29. Q. Are not the rates from New York and other Eastern cities to Newnan, Hogansville, Lagrange and West Point made up by combining the rates through to Atlanta or Opelika with the local rates on from Atlanta or back from Opelika, as the case may be, to those intermediate points?

A. That is my understanding of the way they make those rates.

211 30. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than on long through hauls?

A. Yes, sir.

NASHVILLE, TENNESSEE, *July 16, 1897.*

R. E. LUTZ, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. R. E. Lutz; residence, Montgomery, Alabama; age, 46; freight-traffic manager of the Atlanta and West Point Railroad, and the Western Railway of Alabama.

2. Q. How long have you been engaged in the railroad transportation business and in what capacities?

A. In transportation and traffic about twenty-eight years. I first started out as telegraph operator, then as local agent, then as train

dispatcher, then as contracting freight agent, then as chief clerk in the general freight office, and then traffic manager.

3. Q. State how the rates charged by the Atlanta & West Point Railroad and the Western Railway of Alabama from Atlanta to Newnan, Grantville, Hogansville, Lagrange, and West Point, Georgia, compare with the rates authorized and approved by the Georgia Railroad commission as reasonable and just for similar distances in the State of Georgia.

A. I will answer that and state that the rates charged by the Atlanta & West Point Railroad from Atlanta to Newnan, Grantville, Hogansville, Lagrange, and West Point are exactly and identically the rates that this company is directed and ordered to charge by the Georgia railroad commission and are practically the same as charged for similar distances by other roads in the State of Georgia.

4. Q. File as Exhibit No. 2 to this case the following pages of the 23rd annual report of the railroad commission of Georgia, from October 15th, 1894, to October 15th, 1895; namely, pages 64, 65, 66, 67, 99, 126, 127, 128, 129, and 130.

A. I file the same herewith.

(The pages of the report referred to are hereto attached and marked Exhibit No. 3.)

5. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of the like kinds of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, Lagrange, and West Point more than to Opelika?

212 [A.] The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, West Point, and Opelika were, in November, 1892, as follows:

[Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	78	....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	94	....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	97	....
Lagrange, Ga	154	135	118	102	82	66	....	....	....	....	....	99	....
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	88	....
Opelika, Ala	114	98	86	73	60	49	36	48	40	39	58	66	70

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, Lagrange, and West Point so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. In my opinion, the reductions in rates to the Atlanta & West Point Railroad stations based on the Opelika rate would not materially increase the business at the intermediate local stations on the Atlanta & West Point Railroad, for the simple reason that the amounts of the shipments that are made are based on the first six classes, which are principally dry goods, boots and shoes, hats, millinery, and notions. Assuming that you apply the regular published tariff rates to those stations, the additional cost perhaps on a suit of clothes would be so very small that you could scarcely compute it. The same is true on a hat. Take a pair

of shoes, for instance; it would probably be a fraction of a cent; and any reduction in the rates would not, in my opinion, increase the business of those stations. It would simply have the effect of causing that much loss in revenue to the Atlanta & West Point Railroad.

6. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight from New York, Philadelphia, etc., to Opelika, Alabama.

213 A. The allrail lines via Cincinnati in connection with the Louisville & Nashville Railroad, is—

The Cincinnati, New Orleans & Texas Pacific Railway via Hagerstown, Alexandria, and Richmond in connection with

The Norfolk & Western Railroad,

The Southern Railway,

The Seaboard Air Line, and

The Atlantic Coast Line, as well as the rail and water lines plying by the ports of Norfolk, Charleston, Brunswick, and Savannah, all are active competitors for the business from Eastern cities to Opelika.

The Plant System,

The South Carolina & Georgia Railroad,

The Georgia Railroad,

The Charleston & Western Carolina Railroad,

compete actively for the business handled through Charleston.

The Southern Railway and Plant Systems through Brunswick, and the Central of Georgia and Plant Systems and the Georgia & Alabama Railroad through Savannah.

7. Q. What is the distance from New York to Opelika, Ala., via ocean to Charleston, and thence via the South Carolina Railway, the Georgia Railroad, the Atlanta & West Point Railroad, and the Western Railroad of Alabama?

A. The distance from New York to Opelika via steamship to Charleston, Augusta, and Atlanta is 668 miles. The distance from New York to Opelika via Charleston, Augusta, Macon, and the Central of Georgia Railway is 642 miles.

The distance from New York to Opelika via ocean to Savannah, and the Central of Georgia Railway, is 570 miles.

The distance from New York to Opelika via ocean to Savannah and thence via the Georgia & Alabama Railway, Americus, and the Central of Georgia Railway is 542 miles.

The distance from New York to Opelika via ocean to Brunswick and via the Brunswick & Western Railroad, Columbus Southern (now part of the Georgia & Alabama Railroad), and the Central of Georgia Railway is 548 miles.

8. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from cities other than New York and Philadelphia.

A. From the Ohio and Mississippi Rivers:

The Cincinnati, New Orleans & Texas Pacific Railway,

The Louisville & Nashville Railroad,

The Louisville, Evansville & St. Louis Railroad,

214 The Ohio Valley Railroad,

The Mobile & Ohio Railroad,
The Nashville, Chattanooga, & St. Louis Railway,
The Missouri Pacific Railway,
The St. Louis, Alton & Terre Haute Railroad,
The Kansas City, Memphis & Birmingham Railroad,
The Southern Railway,
The New Orleans & Northeastern Railroad,
The Alabama & Vicksburg Railroad, and their connections, actively compete now and did compete in 1892 for Opelika traffic, reaching that point over the Western Railway of Alabama, or the Central of Georgia, or both.

9. Q. State whether the rates on the above-mentioned classes of freight from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Opelika, are controlled to any, and if so to what, extent by competition.

A. The rates from New York, Philadelphia, etc.. via Charleston, Augusta, and Atlanta, to Opelika are materially controlled, and, in fact, determined by the competition that exists. The Central of Georgia Railway and the ocean steamship companies being under one management and control, leading direct from the Eastern ports to Opelika, control the making of rates to that point, and but for this competition to Opelika the rates to that point would be made on the combination to the other local stations and would be higher than the rates to any point on the Atlanta & Westpoint Railroad.

10. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, and Westpoint are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. I consider the aforementioned rate from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, and Westpoint to be just and reasonable, as the rates per ton per mile do not indicate them to be unreasonable in themselves, and inasmuch as they are not higher than the rates from other points of distribution to stations on other roads under similar circumstances and conditions.

11. Q. State what were the proportions received by the different carriers out of the rates in effect in November, 1892, from New York, Philadelphia, etc., via water to Charleston, thence via Augusta and Atlanta to Opelika.

A. The proportions were as follows:

215 [Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Insurance	11	8	6	4	3	2	2	2	2	2	2	2	4
Steamship	30.5	26.2	23	19.4	15.5	12.2	9	12.9	10.3	9.9	16.1	19.4	19.9
W. & T	8	8	8	8	8	8	5	5	5	5	5	5	10
S. C. & G	18.3	15.8	13.3	11.7	9.3	7.4	5.4	7.7	6.2	6	9.7	11.7	12
Aug. Transfer	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	3
Ga. Ry	22.8	19.6	17.6	14.5	11.6	9.1	6.7	9.6	7.6	7.4	12	14.5	14.8
A. & W. P	11.4	9.9	8.7	7.3	5.8	4.6	3.4	4.9	3.9	3.8	6.1	7.3	7.5
Western Ry	10.5	9	7.9	6.6	5.3	4.2	3	4.4	3.5	3.4	5.6	6.6	6.8
Total	114	98	86	73	60	49	36	48	40	39	58	68	78

12. Q. State what proportion was received by the Atlanta & West Point Railroad and the Western Railroad of Alabama amounted to in cents per hundred pounds.

A.

[Cents per ton per mile.]

Classes.												
1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	F.
2.6	2.3	2	1.7	1.3	1.1	0.7	1.1	0.9	0.9	1.4	1.7	1.7

216 13. Q. Did the proportions which were received by the said Atlanta & West Point Railroad and the Western Railway of Alabama during 1892 on each of the different classes of freight shipped from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta, destined to Opelika, exceed the additional cost to said roads of the movement of said freight?

A. The proportions accruing to the Atlanta & West Point Railroad and the Western Railway of Alabama in 1892 on the different classes of freight from New York, Philadelphia, etc., to Opelika, exceed slightly the cost of movement of said freight. The fact that the general expenses of the road would be the same, that the same number of trains would be run whether this Opelika business were handled or not, makes the carrying of such freight remunerative, while, as a matter of fact, if all business carried was at the same rate, the revenue derived would be inadequate to meet the expenses incident to the safe and efficient service that railroads are now required to give.

14. Q. Were the Clyde Steamship Company, the South Carolina Railway Company, the Georgia Railroad & Banking Company, the Louisville & Nashville Railroad Company, the Central Railroad & Banking Company of Georgia, the Atlanta & West Point Railroad, and the Western Railroad of Alabama under any common control or management in 1892 or are they now under any such common control or management?

A. To the best of my knowledge and belief the Clyde Steamship Company, the South Carolina Railway Company, the Georgia Railroad & Banking Company, the Central Railroad & Banking Company of Georgia, the Atlanta & West Point Railroad, and the Western Railway of Alabama were not under any common control or management in 1892, nor are they now under any common control or management.

15. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Competition between carriers has always been recognized as a factor in determining rates, its importance varying with the degree and nature of the competition. The simple fact that two roads pass through the same point does not necessarily make rates to that point different from what they would be if situated only on one line. This is particularly the case where two roads are really not in actual competition, as the termini drawing business from different sections. Water competition is an important factor in the adjustment of rates and invariably has the
217 effect of making them low on account of the exceeding cheapness by which water lines can carry freight.

16. Q. State whether there is any such competition at Newnan, Grantville, Hogansville, Lagrange, or Westpoint as affects the rates like the competition which exists at Opelika.

A. Such competition as exists at Newnan and Lagrange, Georgia, is entirely different from that which exists at Opelika; while at Grantville, Hogansville and Westpoint there was no competition whatever.

17. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I think my answers fully cover the case. I do not know of anything I could add that would help the case.

Cross-examination by Mr. SHAVER:

1. Q. I notice that you read your answers to the direct interrogatories from a manuscript before you. How long ago did you prepare your answers?

A. Probably about a month ago.

2. Q. You had been furnished with copies of the interrogatives, had you not?

A. Yes, sir.

3. Q. Does the Georgia railroad commission undertake to fix through rates on interstate commerce, or any proportion of such through rates?

A. On interstate commerce, no, sir.

4. Q. Are not the rates from Atlanta to Newnan, Grantville, Hogansville, Lagrange, and Westpoint what are known as local rates?

A. Yes, sir.

5. Q. You stated in your answer to the direct interrogatories that the reduction in the rates to Newnan, Grantville, Hogansville, Lagrange, and Westpoint, so as to make the rates to those points not higher than the rates to Opelika, would not, in your opinion, increase the business to those points.

A. I do not think they would.

6. Q. Do you mean by that, immediately increase the business?

218 A. It would not do it immediately. It would not increase the business immediately. The business in general would not be increased by the reduction in the rates.

7. Q. Would it not be increased in the course of time?

A. It is just how you consider time. If you take twenty, thirty, or forty years, the business may increase as the population of the county increases.

8. Q. I am referring to increase as attributable to the reduction in the rates.

A. No, sir; I do not think the reduction in the rates would increase the business at those points. That is my candid opinion.

9. Q. Now, the rate on first-class goods from New York and Philadelphia to Lagrange is $1.54 per hundred; to Opelika, $1.14; making a difference in favor of Opelika of forty cents per hundred pounds. Is not that a material difference in rates?

A. Yes, sir; that is a material difference in rates, putting it that way;

it is just the difference between $1.14 and the rates you named to Lagrange, $1.54.

10. Q. Supposing that the merchants at Opelika sell goods at Westpoint and Lagrange and in surrounding territory in competition with the local merchants at Westpoint and Lagrange, would not a reduction in rates to Westpoint and Lagrange, which would make them not higher than the Opelika rates, be of great benefit to the merchants at Lagrange and Westpoint in their competition with the Opelika merchants?

A. If that was true, that the Opelika merchants did not compete by reason of the lower rates they have on business from the East, with the merchants at Lagrange, Hogansville, and Grantville, of course, a lower rate to those points would naturally benefit the merchants at those points; but as a matter of fact the rates being to Westpoint almost identically made on the combination to Opelika, plus the full local of the Western Railway of Alabama, practically prohibits the Opelika merchants from going into that market and competing against the Westpoint merchants.

11. Q. My question was based on the supposition that they did not compete.

A. They possibly may compete, but it is on equal terms, because the rates are made identically the same—the total rates are identically the same.

12. Q. Under the existing system of rates, then, the Opelika merchant can ship goods through from New York, through the intermediate points to Opelika, and then back to these points in the first instance?

219 A. Only one, and that is West Point. On the first six classes, the business from Eastern cities, the rates to West Point are made by taking the through rate to Opelika plus the full local rates of the Western Railway from Opelika to West Point.

Now, to La Grange, Hogansville, Grantville the rates are made differently. The rates are made on Atlanta, which are lower than are made on Opelika, plus the local of the two roads to points mentioned.

13. Q. To what points?

A. To all points with the exception of West Point, and to West Point only the first six classes are made on the Opelika combination.

14. Q. The rate, then, from Newnan, Grantville, Hogansville, and La Grange are the through rate to Atlanta plus the local rate from Atlanta on to those points—I mean with the exception of Newnan?

A. With the exception of Newnan the rates are made with the full locals of the Atlanta and West Point road.

15. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a reduction of rates to a given point towards improving and increasing the business at that point?

A. I cannot say that it will. In some localities, some business, possibly that might be true. In other words, it would not be true in all cases. It simply means this: that if you reduce the cost of a barrel of flour or a pound of sugar, the consumer, in all probability, might get the benefit of a proportional decrease in the freight. It would not increase the consumption, in my opinion, the least bit.

16. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction of rates to a given point towards improving and increasing the business at that point? Your answer is the same to this question?

A. Yes, sir.

17. Q. As a general rule, and in the absence of exceptional conditions, is not the natural tendency of a material reduction of rates to a given point, towards the encouragement of investment of capital at such point and the increase of its population?

A. Not in all cases. It might be in exceptional cases. As a rule, it would not.

220 18. Q. Would not the natural effect of unfavorable rates to or discrimination in rates against a given point injure the mercantile and other business interests of such point, and retard or prevent its growth or prosperity?

A. That would depend a great deal on what you might term "discrimination." What the discrimination might be. It would depend a good deal on that. In most cases it would not make any difference, the difference in the rates being so small that it would make no material difference.

19. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of these localities and discriminatory against the other benefit the one and injure the other?

A. Yes, sir; I naturally think that would be the case. I think that would be the result.

20. Q. Do not rates enter into and affect the price of goods?

A. To a certain extent, yes; just as I stated a while ago. You might, for instance, take a rate to a given point, where—say it is from New York $1.56; to another place it is $1.14. Those rates apply on such goods ashats, dry goods, and dress goods. It would be very difficult indeed to compute the additional cost per yard on dress goods with that difference in freight per hundred pounds. It would be so small that you could hardly take it into consideration. The same thing would be true as to the additional cost of a hat or a pair of shoes or a pair of socks or a necktie.

21. Q. Does not a merchant, in fixing the price of his goods, have to include in that price the original cost of the goods to him and also the cost of transportation?

A. Yes, sir; he would do that if the goods are sold to him f. o. b. upon shipment. If so delivered at a certain price, I suppose the shipper in making that price would add the freight in. He would naturally do that. But as a general rule I suppose the freight has to be added to the original cost of the goods.

22. Q. Do not lower prices bring goods within the reach of the greater number of people and thus tend to increase the consumption of goods?

A. That might be true in some cases. In other cases I do not know that it would.

23. Q. In your answer to the direct interrogatories you named a number of lines from New and Eastern cities and also from

221 Ohio and Mississippi river points which could be formed to Opelika. Cannot those lines also be formed to Newnan, Grantville, Hogansville, La Grange, and West Point by combination with either the Western Railway of Alabama or the Atlanta and West Point Railroad as the terminal carriers of such lines?

A. Yes, sir; I should think so. That is, the lines mentioned. They, in connection with other lines, could form the same through lines.

24. Q. Are not the rates by all the all-rail lines from New York and other Northeastern cities to Opelika the same?

A. Yes, sir.

25. Q. Are not the rates by the rail and by the water lines from New York and other Northeastern cities to Opelika the same?

A. Yes, sir.

26. Q. Is it not a rule that a short line between two given points fixes the rate?

A. Yes, sir.

27. Q. Is not traffic transported from New York and other Eastern cities over the line involved in this case, namely, the line from New York to Charleston by the Clyde Steamship Company from Charleston to Augusta, by the South Carolina Railroad, from Augusta to Atlanta by the Georgia Railroad, and from Atlanta to Newnan, Grantville, Hogansville, La Grange, and West Point by the Atlanta & West Point Railroad, under through rates?

A. Yes, sir; through rates are made just as I said before, by taking the rates to Atlanta or Opelika, as the case may be, and adding the local rate. That is done as matter of convenience to the shippers.

28. Q. Is such traffic not also transported over that line under through bills of lading, issued by the initial carrier at New York and other Northeastern cities?

A. Yes, sir.

29. Q. You stated in your direct examination that the rates over the line involved in this case from New York and other Northeastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point were just and reasonable. Is that your opinion also as to the rate from New York and other Northeastern cities for the longer haul, through those intermediate points to Opelika?

A. Yes, sir.

30. Q. You stated that the rate to Opelika pays something in excess of the additional cost of handling the freight over the proportion received by the Atlanta and West Point road?

A. Yes, sir.

222 31. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of the service of carriage?

A. No, I would not consider it a reasonable rate if it did not yield the carrier sufficient revenue over and above the cost of transportation.

32. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost of the expense of the service of carriage?

A. That would be the only means we would have of knowing or trying to approximate as to about what the cost—that is trying to find out the cost as near as you can of carrying a ton of freight a mile or anything in excess of that—quite a number of things you have to take into consideration in saying whether that would be a profitable rate or not. For instance, you might at certain seasons of the year haul certain freight on certain trains that had to move anyhow, whether they had one car or

whether they had twenty. In that case you could probably move a car of freight or a ton of freight at much less expense than you could had you to provide special service, or if it were at other times of the year. There are times when we accept certain freights that we would not accept at other times. I will take the local freight, for instance, that will run between Atlanta and West Point. That train has got to run; we have got to pay the engineer and we have got to pay the crew; and by adding on probably one or two more cars, or something of that kind, it probably would not add to the cost of the train but very little more. Now, if we had to go to work to perform a certain service for a certain class of low freight we often could not afford to haul it; we would not haul it; we turn down lots of it.

33. Q. The transportation of the hindmost car would cost the road as much for transporting it the same distance as it cost for the foremost car?

A. That would not always be the case for the very reason that the foremost car would not be switching back and forth as much, being attached to the engine, and the wear and tear of that car, and the cost of repairs to that car, and the accidents to that car would not be as great as the hindmost car that was constantly being switched from the point of shipment to the final destination. Going into the switch so often might cause a draw frame to be pulled out or a brake being broken, or something of that kind, and even if no accident happened to the car there is obliged to be more wear and tear on that car.

223 34. Q. Does not the cost or the expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Yes, sir.

35. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Yes, sir.

36. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Yes, sir.

37. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, and roadbed, etc., greater the greater the length of the haul?

A. Yes, sir.

38. Q. Other things being equal, is not the cost of keeping the road in repair or good condition greater the greater the length of the road?

A. Yes, sir.

39. Q. Other things being equal, does it not require more locomotives and cars and crews for running a train on a long road than on a short one?

A. Yes, sir.

40. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital, greater the greater the length of the road?

A. Yes, sir.

41. Q. Is not the expense to the carrier on strictly local hauls greater per ton per mile than on long through hauls?

A. Yes, sir.

42. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. Nearly 25 years.

43. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer distance point?

A. No, sir.

NASHVILLE, TENNESSEE, *July 19, 1897.*

GEORGE R. KNOX, a witness on behalf of the defendants, having been duly sworn, testified as follows:

224 Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. George R. Knox; 52; Nashville, Tenn.; general freight agent, Nashville, Chattanooga and St. Louis Railway.

2. Q. How long have you been connected with the railroad freight transportation business in the United States, and in what capacities?

A. I was in the local freight office and in the accounting department for some time before entering the general freight office of the Nashville, Chattanooga and St. Louis Railway. I have been in the general freight office since March, 1867, and as subordinate clerk, chief clerk, assistant general freight agent, and general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, Lagrange, and Westpoint more than to Opelika. The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, Westpoint, and Opelika were in November, 1892, as follows:

[Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	78	....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	94	....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	97	....
Lagrange, Ga	154	135	118	102	82	66	....	....	....	....	....	99	....
Westpoint, Ga	142	124	110	93	77	62	....	....	....	....	....	88	....
Opelika, Ala	114	98	86	73	60	49	36	48	40	39	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, Lagrange, and Westpoint, so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

225 A. In my opinion, if the rates to Newnan, Grantville, Hogansville, Lagrange, and Westpoint were reduced to the same as to Opelika, it would simply result in a loss of revenue to the extent of such

reduction of the freight hauled for the reason that such reduction would not materially increase the traffic to these points, they being what might be termed consumptive rather than jobbing or distributing points.

4. Q. State what transportation lines actually and actively competed in 1892, and now compete, for the transportation of the above-mentioned class of freight from New York, Philadelphia, etc., to Opelika, Ala.

A. These lines are as follows:

Route No. 1: The Ocean Steamship Company to Savannah, 250 miles; the Central of Georgia Railway to Atlanta, 294 miles; Atlanta & West Point Railroad and Western Railway of Alabama to Opelika.

Route No. 2: The Ocean Steamship Company to Savannah, 250 miles; the Central of Georgia Railway to Opelika.

Route No. 3: The Clyde Steamship Company to Charleston, 250 miles; the South Carolina & Georgia Railroad to Augusta, 138 miles; the Georgia Railroad to Atlanta, 171 miles; the Atlanta & West Point Railroad and the Western of Alabama Railway to Opelika.

Route No. 4: The Old Dominion Steamship Company to Norfolk, 160 miles; the Norfolk & Western Railway to Bristol, 408 miles; the Southern Railway to Chattanooga, 242 miles; the Western & Atlanta Railroad or Southern Railway to Atlanta, 138 miles; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 5: The Old Dominion Steamship Company to Portsmouth, 160 miles; the Seaboard Air Line to Atlanta, 595 miles; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 6: The Old Dominion Steamship Company to Nor-
226 folk, 160 miles; the Southern Railway to Atlanta, 595 miles; the Atlanta & West Point Railroad or the Western Railway of Alabama to Opelika.

Route No. 7: The Old Dominion Steamship Company to Pinners Point, 160 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railway to Augusta, 57 miles; the Georgia Railroad to Atlanta, 171 miles; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 8: The Old Dominion Steamship Company to Pinners Point, 160 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railway to Augusta, 57 miles; the Georgia Railroad to Macon; the Central of Georgia Railway to Opelika.

Route No. 9: The Lehigh Valley Railroad to Allentown, 93 miles; the Philadelphia & Reading Railroad to Ship'ensburg, 131 miles; the Western Maryland Railroad to Hagerstown, 46 miles; the Norfolk & Western Railway to Bristol, 390 miles; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 10: The Central Railroad of New Jersey to Allentown, 90 miles; the Philadelphia & Reading Railroad to Shippensburg, 131 miles; the Western Maryland Railroad to Hagerstown, 46 miles; the Norfolk & Western Railway to Bristol, 390 miles; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 11: The Pennsylvania Railroad to Harrisburg, 195 miles; the Cumberland Valley Railroad to Hagerstown, 74 miles; the Norfolk

& Western Railway to Bristol, 390 miles; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 12: The Pennsylvania Railroad to Alexandria, 237 miles; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

227 Route No. 13. The Pennsylvania Railroad to Delmar, 215 miles; the New York, Philadelphia & Norfolk Railroad to Pinners Point, 131 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railroad to Augusta, 57 miles; the Georgia Railroad to Atlanta, 171 miles; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 14. The Pennsylvania Railroad to Delmar, 215 miles; the New York, Philadelphia & Norfolk Railroad to Pinners Point, 131 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railroad to Macon, 57 miles; the Central of Georgia Railway to Opelika.

Route No. 15. The Central Railroad of New Jersey to Bound Creek, 31 miles; the Philadelphia & Reading Railroad to Philadelphia, 60 miles; the Baltimore & Ohio Railroad to Alexandria, 144 miles; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 16. The Pennsylvania Railroad to Delmar, 215 miles; the New York, Philadelphia & Norfolk Railroad to Portsmouth, 131 miles; the Seaboard Air Line to Atlanta, 595 miles; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 17. The Mallory Steamship Line to Brunswick; the Southern Railway to Atlanta; the Atlanta & West Point Railroad and the Western Railway of Alabama to Opelika.

Route No. 18. The Mallory Steamship Line to Brunswick; the Southern Railway to Macon, and the Central of Georgia Railway to Opelika.

Route No. 19. The Mallory Steamship Line to Brunswick; the Plant System to Albany; the Georgia & Alabama Railroad to Columbus; the Central of Georgia Railway to Opelika.

228 Route No. 20. The Mallory Steamship Line to Brunswick; the Plant System to Albany; the Central of Georgia Railway to Opelika.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight to Opelika from cities other than New York and Philadelphia.

A. All lines west of Pittsburg leading South compete for the t'ansportation of freight to Opelika, Alabama.

6. Q. State whether the rates on the above-mentioned classes of freight from New York, Philadelphia, &c., via Charleston, Augusta, and Atlanta to Opelika, are controlled to any extent, and if so, to what extent, by competition.

A. Yes, sir; the rates from New York, Philadelphia, &c., to Opelika are controlled by competition, not only among the lines leading directly from the Eastern cities, but also by competition from Cincinnati and Ohio River points, and also by rates made from both Eastern and Western cities to Atlanta, Macon, &c.

7. Q. State whether or not, in your opinion, the above-mentioned class rates from New York, Philadelphia, &c., via Charleston, Augusta, and Atlanta, to Newnan, Grantville, Hogansville, Lagrange, and West Point are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. Yes, sir; I consider the rates from New York, Philadelphia, &c., via Charleston, Augusta, and Atlanta, to Newnan, Grantville, Hogansville, and West Point just and reasonable, for the reason that they do not allow the carriers excessive revenue for the service performed, and, furthermore, that they compare favorably with other rates for similar distances and services in that territory, and these points receive the benefit of the competition up to Atlanta and Opelika.

8. Q. State whether competition between carriers, whether by rail or water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Yes, sir; competition between carriers, whether by rail or by water, affects the circumstances under which transportation is conducted.

9. Q. Does it, or not, substantially affect it?

A. Yes, sir; substantially affects it.

229 10. Q. State whether or not there is any such competition at Newnan, Grantville, Hogansville, Lagrange, or West Point as affects rates like the competition which exists at Opelika.

A. I do not consider that the same competition exists at Newnan, Grantville, Hogansville, Lagrange, and West Point as at Opelika, but these points do have the benefit of competition as exists up to Opelika and Atlanta.

11. Q. State whether the number of tons carried one mile, or the number of tons carried of freight-earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile can either jointly or separately be used as a standard in railroad rate making.

A. No, sir; I do not consider the freight receipts per ton per mile or the estimated cost per ton per mile, or the number of tons carried one mile, or the estimated cost of carrying one ton one mile can be used as a standard for a basis in making rates, for the following reasons:

(a) The local freight of the road is handled under entirely different circumstances and conditions from through or competitive freight.

(b) On competitive freight, as a rule, the value of transportation is fixed by the surroundings.

(c) There are certain fixed charges and expenses which have to be made whether the business is light or heavy.

(d) The freight receipts per ton per mile may show heavy on account of the class or character of freight handled. Then, again, for the same reason they may show light on account of the low class of freight.

Again, the volume of business as well as the class of the business and how it averages up necessarily changes the rate per ton per mile as well as the cost of transportation.

12. Q. Does the Nashville, Chattanooga & St. Louis Railway and its connections compete for the transportation of the above-mentioned classes of freight to Opelika or not?

A. From the East?

13. Q. From the West or any point.

A. Yes, sir; from the West we do.

14. Q. Does said railway and its connections advertise for the transportation of that freight?

A. Yes, sir; just exactly as we do for other freight throughout the country from the entire West.

15. Q. Do they solicit the carriage of that class of freight?

230x A. Yes, sir.

16. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties as issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters involved in this cause? If yea, set forth the same fully and at large in your answer.

A. I think these questions and answers have covered the ground quite fully.

Cross-examination by Mr. SHAVER:

1. Q. In the event the merchants at Opelika sell goods at West Point, Lagrange, and Hogansville, and in the territory adjacent, in competition with the local merchants at those points, would not a reduction in the rates from New York and other Northeastern cities to those intermediate points, so as to make their rates not higher than the Opelika rates, be of great benefit to the local merchants at those intermediate points in that competition?

A. If, in equalizing the rates to Newnan, Grantville, Hogansville, Lagrange, and West Point to Opelika and Atlanta, the rates to Opelika and Atlanta should be advanced the same as to the points mentioned, it would not reduce the rates to these intermediate points but would only advance the rates to the two terminal or competitive points. The merchants at Atlanta and Opelika, after having paid inbound the same rates as the rates paid direct to Newnan, West Point, and the other intermediate points, they would be practically excluded from competing with the dealers at those points, because they would have to pay, in addition, the same rates inbound as paid by those dealers and the additional rate outbound, and it would mainly benefit the dealers at Newnan, West Point, &c., by excluding dealers at Atlanta and Opelika from competing for that business.

2. Q. If the rates to intermediate points from New York, &c., were made not higher than the Opelika rate by the reduction of the rates to those intermediate points, would not the result be the same?

A. I think the result would be practically the same as explained in my last answer, that the dealers at these intermediate points would be benefited by excluding their competitors at Atlanta and Opelika.

231 3. Q. The rates to Atlanta and Opelika from New York and other Northeastern cities are the same, are they not?

A. I do not know. The Nashville, Chattanooga & St. Louis road does not compete for the business from New York either to Atlanta or Opelika, and I do not keep track of those rates very closely, and I do not know whether they are the same or not.

4. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. Frequently it does not have that effect. If the rates on flour, corn,

hay, and hog products from the West to the Southeast were reduced one-half, I do not think it would have any material effect on the volume of traffic, nor do I think that if the rates on cotton from the Southeast to the seaboard or to Eastern cities were cut half in two that it would materially affect the volume of that traffic.

5. Q. Which is more beneficial to the business of a locality, high rates or low rates?

A. It depends altogether upon the conditions surrounding it. Low rates on agricultural products from the West have proven very injurious to Tennessee farmers. They would be benefited if those rates were made higher. In my opinion, the opening up of the many new Western lands and the low rates made from the very fertile low-priced fields of the West and Northwest have materially and permanently lowered the values of the farm lands through Tennessee.

6. Q. As a general rule, in the absence of exceptional conditions, which are more beneficial to a locality, low rates or high rates?

A. Sometimes one and sometimes the other. The manufacturer likes to have low rates with which to get out with his products. He likes to have high rates into his territory, from other territory into his section, on like character of goods.

7. Q. Do not rates of transportation enter into and affect the prices of goods sold by merchants?

A. On some classes the rates of freight, no doubt, does have a controlling influence on the price. On other classes it has very little to do with the price. Take, for instance, dry goods from New York to any of the Southeastern markets, or boots and shoes; if the rate of freight
232 was cut half in two the probability is the consumer would pay the same price for the dry goods or the boots and shoes that they do now.

8. Q. Would not the merchants be benefited.

A. The merchants' profit would be somewhat increased.

9. Q. Does not the general prosperity of the locality depend largely upon the prosperity of its merchants and business men?

A. It does; and the manufacturers, I would add, where it has them.

10. Q. Is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at such point and the increase of its population?

A. Yes, sir; a reduction in rates to a point will encourage the investment of capital at that point.

14. Q. I asked if that is not the natural tendency.

A. No, sir; frequently the reverse.

15. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at such point and the increase of its population?

A. No general answer can be given. In each instance the other conditions and surroundings of the particular point in question would, no doubt, enter largely into the result. Low rates on the raw material for manufacturing purposes, to a given points, are beneficial. But, as heretofore explained, low rates on the manufactured product to the same point in competition with the local manufacturer are injurious.

13. Q .Injurious to the local manufacturers?

A. Yes, sir; injurious to the local manufacturers; and, as explained above on agricultural products, low rates from the West to Tennessee points have proved injurious to the Tennessee farmers while beneficial to the Tennessee consumers. So that low rates to any points, while benefiting some classes of population, must injure others, and whether or not the entire community is benefited by it depends upon the preponderance or the greater number of those who are benefited or those who are injured.

14. Q. Are not the consumers in all instances benefited by low rates on the articles which they consume?

A. They might be benefited in securing some of their supplies at slightly lower prices, although, as stated in the case of dry goods
233 and boots and shoes from the East, possibly the consumer might get no benefit, but the jobber or merchant might receive some; but if these consumers should be employés of the manufacturing establishments injured by these low rates to their point, the reduction in their wages might more than offset the less price in the articles which they consume.

15. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. Yes, sir.

16. Q. Are the rates from New York and other northeastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point, in your opinion, just and reasonable in and of themselves?

A. I think they are.

17. Q. Are the lower rates from New York and other northeastern cities for the longer hauls through those intermediate points to Opelika also just and reasonable in and of themselves?

A. I think so.

18. Q. Do those rates to Opelika yield the carriers revenue in excess of the cost of transportation?

A. They do.

19. Q. Would those rates to Opelika be made higher but for competition?

A. They would.

20. Q. Is a rate, in your opinion, reasonable which does not yield a carrier a proper remuneration over and above the cost of the service of carriage?

A. No, I do not think it is.

21. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. That is one of the factors that enters into the cost, but only one.

22. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. It is.

23. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. It is.

234 24. Q. Other things being equal, is not the wear and tear on locomotives, cars, tracks, roadbed, etc., greater the greater the length of the haul?

A. Yes, sir.

25. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. It is.

26. Q. Other things being equal, does it not require more locomotives and cars and crews for running trains on a long haul than on a short one?

A. It does.

27. Q. Other things being equal, does not distance add to the cost of building the road, and are not, therefore, the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Where all things are equal that is true.

28. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than on long through hauls?

A. It is.

29. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. Continuously since December, 1865.

30. Q. Has the greater charge for the shorter than the longer haul over the same line, in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer-distance point?

A. Well, that word "competition" is a very broad one. Sometimes there is competition of products as well as competition of lines, competition of markets, and letting the word "competition" include all branches of the subject, then I would answer that it has never been made except to meet competition—letting the word "competition" cover all branches of the subject, that is, competition of markets, product with product, competition of line and line, and competition of rail with water.

31. Q. Is there competition to market without there being also competition in transportation?

A. Yes, sir.

32. Q. Well, name an instance.

A. We have right in our own line here two towns selling the same product, competing with each other, shipping over the same road, both being local points. For instance, there is a pipe foundry at South

235 Pittsburg and another at Bridgeport. Both are local to our line, and both of which compete strongly with each other in selling their pipe to the markets of the country.

33. Q. Is there any greater charge for the shorter than the longer haul?

A. No. In that case the charge is the same.

34. Q. I am referring to cases of a greater charge for the shorter haul. Is that greater charge ever made except in the case of competition in transportation, to your personal knowledge?

A. I can not for the moment call to mind such a case, though I am

quite sure there have been such cases. There is a case in point from Nashville to Hickman. There is only one line from Nashville to Hickman, and yet the rates to Hickman are less than to points this side of Hickman. There is only one line. That is competition of market with market. Nashville reaches Hickman, Kentucky, over the Western Division of our road; St. Louis reaches Hickman not only by rail, but also by the Mississippi River boats at low rates, so that Nashville would be unable to sell any goods in Hickman, and therefore we were forced to make low rates from Nashville to Hickman. They were made to meet the competition of St. Louis and other markets reaching Hickman by river. We do not make as low rates to the other points this side of Hickman, notwithstanding there is only one road between here and Hickman; no other line from here to Hickman. I never heard of freight going from Nashville to Hickman except over our road.

35. Q. Is that not a case of competition between your line to Hickman and the lines from St. Louis to Hickman?

A. It is what I call competition of market with market.

36. Q. Does it not also involve the competition between transportation lines from different markets?

A. Indirectly it does; yes; that is true. St. Louis has her low rates.

37. Q. Is not a rate under which traffic will move, and which is not so high as to divert the traffic to other roads or lines, in your opinion, a reasonable rate?

A. Yes, sir; I think it is.

38. Q. If the rule that there shall be no greater charge for a shorter than a longer haul over the same line in the same direction, the shorter haul being included in the longer, were observed by all the roads or lines from New York and other Northeastern cities to Nashville, would it be necessary for any one of those roads or lines to depart from this rule in order to retain its share of its traffic and prevent diversion of its traffic to the other roads or lines?

236 A. It would; that is, it would be necessary to depart from that rule.

39. Q. In the direct examination you named a number of lines which could be formed to Opelika. Can not all those lines be also formed to Westpoint, Lagrange, Hogansville, Grantville, and Newnan by combination with the Atlanta & Westpoint or the Western Railroad of Alabama as the terminal carriers?

A. They could.

40. Q. Are not Newnan and Lagrange situated on other roads besides the Atlanta & Westpoint road?

A. Yes, sir.

41. Q. State what other road Newnan is located on.

A. The Central Railway of Georgia.

42. Q. What other roads is Lagrange located on?

A. On the Macon & Birmingham.

43. Q. Is not traffic transported from New York and other Northeastern cities to Newnan, Grantville, Hogansville, Lagrange, and Westpoint under through bills of lading issued by the initial carrier at New York and other Northeastern cities?

A. I think so.

44. Q. Is not such traffic transported under through rates to those intermediate points?

A. Yes, sir; that is my understanding.

45. Q. You stated that the Nashville, Chattanooga & St. Louis road competes for the solicits business from the West to Opelika?

A. Yes, sir.

46. Q. Does not your road also solicit and compete for business from the West to points intermediate between Atlanta and Opelika?

A. It does.

47. Q. When traffic is transported from the West over lines of which the Nashville, Chattanooga & St. Louis road forms a part to Newnan, Grantville, Hogansville, Lagrange, and Westpoint, is it not transported under through bills of lading and under through rates?

A. Yes, sir.

48. Q. Are not rates by all the all-rail lines from New York and other Northeastern cities to Opelika the same?

A. They are supposed to be.

49. Q. Are not they the same rates which were originally established by the Southern Railway & Steamship Association?

237 A. I think they were the rates when that association dissolved, but a good deal less than the rates first established by that association.

50. Q. Were not the rates established by the association the rates in force in 1892 to Opelika.

A. I think so.

51. Q. You stated in your direct examination that the average receipts per ton per mile on traffic in general and estimated cost of carrying one ton one mile could not be used as a standard in railroad rate making. Does not such data throw some light on the question whether an existing set of rates is excessive or not in and of itself?

A. They afford some light, but in many cases a light which would be of little service in the making of rates. This estimated cost per ton per mile does not take into account the interest on the bonded debt, and taxes, and other items of expense which the roads have to meet, and while they are of course not absolutely lost sight of, it is only when forced to make exceptional low rates in competition with water lines generally that the actual cost of hauling a ton a mile is carefully considered by the traffic officials. The reason is that it is known that this cost per ton per mile referred to, as I say, does not cover all the items of the expense that the roads are put to, but merely the transportation cost.

52. Q. Are not the average receipts per ton per mile the result of accurate calculation?

A. Yes, sir.

53. Q. Is not the estimated cost of carrying one ton one mile the result of accurate calculation?

A. Yes, sir; usually so.

54. Q. Have not the roads been in the habit of making up and recording this data for a series of years anterior to the year 1880?

A. I do not know how far back of 1880, but I think some of the roads did.

55. Q. For what purpose did they make up this data for themselves?

A. I suppose the president or general manager could perhaps answer that better than I can, but so far as I know, just as general information, and it is sometimes used in determining whether to take freight or let some one else take it, and also to watch the relations of revenue to expenses, and with a view of watching and keeping down expenses within proper limits.

Redirect examination by Mr. BAXTER:

238 1. Q. State whether the number of tons carried one mile or the number of tons carried of freight earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile, either singly or together, was ever used by you or by any other general freight agent or traffic manager to your knowledge in making competitive rates?

A. I cannot recall a case of that sort, except as previously stated when we were called upon to make exceptionally low rates or permit traffic to go by other lines, and particularly water lines. In that case sometimes the actual cost of transportation was taken into account to determine how much loss would be involved in handling such freight and whether it would be better to stand that loss or let the freight go by the other lines.

2. Q. By actual cost of transportation do you mean the entire cost of transportation, or only the additional cost of movement?

A. While I am not fully advised on that point, being not strictly in the traffic department, as I understand it, in making out the rate per ton per mile, the cost of hauling the freight, it is only the transportation cost that is referred to, and does not include interest on bonds and many items of expense that the road is subjected to.

NASHVILLE, TENN., *July 20, 1897.*

T. J. HUNTER, a witness having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. Thomas J. Hunter, Atlanta, Georgia; auditor of the Atlanta & West Point Railroad, and the Western Railway of Alabama; age, 36 years.

2. Q. State whether as auditor you have charge of the accounts of the Atlanta & West Point Railroad and the Western Railroad of Alabama, and whether the earnings on freight carried over said railroads are compiled in your office from copies of the original waybills issued by the agents of the said companies and by the agents of other railways?

A. They are.

3. Q. State whether said Atlanta & West Point Railroad and said Western Railway of Alabama are operated in conjunction with each other under the same general officers and as a continuous through line under substantially the same control; or are they operated separately and under different managements?

239 A. They are operated in conjunction with each other and under one management.

4. Q. Suppose an adjustment of rates on freight from New York, Philadelphia, &c., to Opelika, Alabama, be made on the same basis as the rates from New York, Philadelphia, &c., to the local stations on the Atlanta and West Point Railroad and the Western Railway of Alabama

east of Opelika, so as to compel these roads to cease competing from New York, Philadelphia, &c., to Opelika, what would the effect be upon the gross freight revenue of the said railroads per annum derived from the tonnage moved by the Clyde Steamship Company to Charleston and thence to Augusta and thence via the Georgia Railroad to Atlanta?

A. The loss to the line from Atlanta to Opelika by retiring from business from Eastern cities to Opelika via Clyde line to Charleston and Georgia Railroad would be $49.99 per annum in their entire gross earnings.

5. Q. Suppose the adjustment of rates referred to in the last question be made, what would the effect be upon the gross freight revenue upon said railroads per annum derived from the tonnage moved by all routes from New York, Philadelphia, &c., to Opelika?

A. The loss to the line from Atlanta to Opelika by retiring from business from Eastern cities to Opelika by all routes would be $647.76 in the entire gross earnings per annum.

6. Q. State whether the facts mentioned in your last two answers were ascertained by any compilations made by you; and if so, state how such compilation was made.

A. The figures were obtained by abstracting the waybills covering the traffic for the month of January, 1896, which was taken as a fair average of the year's business.

7. Q. Do you regard such month as being a fair average month for that entire year?

A. Yes, sir.

8. Q. Suppose an adjustment of rates on freight from New York, Philadelphia, &c., to the local stations on the Atlanta & West Point Railroad be made on the same basis as the rates from New York, Philadelphia, &c., to Opelika, what would the effect be upon the gross freight revenue of said railroad per annum derived from the tonnage moved by the Clyde Steamship Company to Charleston, thence to Augusta, thence via the Georgia Railroad to Atlanta?

A. The loss by adjustment of rates on the tonnage from Eastern
240 cities via the Clyde line, Charleston and Georgia Railroad to Atlanta and West Point local stations would be $152.68 per annum.

9. Q. Suppose the adjustment of rates referred to in the last question be made, what would the effect be upon the gross freight revenue of said railroads per annum derived from the entire tonnage moved by all the routes from New York, Philadelphia, &c., to said local stations?

A. The loss by the adjustment of rates on the entire tonnage by all roads would be $3,180.12 per annum.

10. Q. What proportion does the revenue derived by the Atlanta and West Point Railroad from first-class rates bear to the revenue derived from other classes of freight shipped from New York, Philadelphia, &c., destined to local stations on said railroad?

A. 20 2-10 per cent.

11. Q. What stations situated on said railways are competitive points, to and from which rates are generally lower than to and from local stations on said railroad?

A. Atlanta, Montgomery, Opelika, and Selma.

12. Q. Suppose an adjustment of rates on interstate freight to and from all local stations on said railways be made so as not to exceed the rate to and from either of said competitive points above named through which the business passes, what would the effect be upon the gross freight revenue of said railways per annum?

A. An adjustment of rates on interstate traffic to and from all local stations on said railways so as not to exceed the rates to and from either of the competitive points above named through which the business passes would result in a decrease in the gross freight revenue of said railways of $63,331.56 per annum.

13. Q. Suppose an adjustment of rates on interstate freight to and from said competitive points above named be made upon the same basis as the rates to and from the local stations on said railways, what would the effect be upon the gross freight revenue of said railways per annum?

A. An adjustment of rates on interstate traffic to and from each of the competitive points above named upon the basis of the rates to and from the local stations on said railways would result in a decrease of the gross freight revenue of said railways by reason of the loss of competitive business of $133,598.24.

14. Q. State whether the facts mentioned in your last two answers were ascertained by any compilation made by you; and if so, state how said compilation was made.

241 A. The figures were compiled from the original billing on file in the auditor's office covering interstate traffic of said railways for the month of January, 1896.

15. Q. State whether the month selected by you for said compilation represents a fair average of the movement of interstate traffic on said railways for that entire year.

A. The interstate traffic for the month of January, 1896, is a fair sample of the movement of interstate traffic on said railways throughout the year, and is taken as a basis to avoid the large amount of time and labor necessary to abstract the original billing of an entire year.

16. Q. Please state the total freight tonnage, except fertilizer, received at each and all the stations on the Atlanta and West Point Railroad from all points during the year ending June 30, 1896.

A. The total freight tonnage received at all Atlanta & West Point Railroad stations from all points for the year ending June 30, 1896 (not including fertilizers), is as follows:

East Point	323
McPherson	216
College Park	1,745
Red Oak	181
Monks	462
Fairburn	2,464
Palmetto	2,124
Coweta	191
Powells	486
Newnan	15,106
Moreland	1,974
St. Charles	136
Grantville	3,646

Hogansville	5,038
Speers	65
Louise	14
Whitfield	285
Lagrange	12,600
Gabbottville	539
Westpoint	18,299
Total	65,894

17. Q. Please state the total freight tonnage from Eastern cities
242 to all stations on the Atlanta and West Point Railroad for the year ending March 31, 1896; the names of the different routes by which said tonnage was moved; tonnage moved by each of said routes; the total tonnage moved by all of said routes, and the percentage which the tonnage moved by each of said routes bore to the total tonnage moved by all of said routes.

A. The tonnage from Eastern cities to stations on the Atlanta & West Point Railroad for the year ending March 31, 1896, according to the statistics reported by the Southern States Freight Association for that year, was 3,403,025 pounds, equal to 1,701.5 tons. This tonnage moved by the following routes:

Savannah, Central of Ga. Ry., via Atlanta	822,527 lbs.	24.2%
Savannah, Central of Ga. Ry., via Newnan	132,978 lbs.	12.3%
Atlanta	418,803 lbs.	12.3%
Clyde Line, Charleston & Ga. R. R., via Atlanta	132,978	3.9%
Other lines and Ga. R. R., via Atlanta	80,570 lbs.	2.4%
Southern Railway, via Atlanta	1,272,693 lbs.	37.4%
Seaboard Air Line, via Atlanta	675,454 lbs.	19.8%
Total	3,403,025	100

18. Q. Please state the total freight tonnage from Eastern cities to Opelika via all routes during the year ending March 31, 1896; the names of the different routes by which said tonnage was moved; the tonnage moved by each of said routes; the total tonnage by all of said routes, and the percentage which the tonnage moved by each of said routes bore to the total tonnage moved by all of said routes.

A. The total tonnage from Eastern cities to Opelika via all routes for the year ending March 31st, 1896, according to the statistics reported by the Southern States Freight Association for that year, was 1,909,355 pounds, equal to 954.6 tons. This tonnage moved by the following routes:

Savannah and Central Ry	35,333 lbs.	45.3%
Montgomery and Western Ry	460,374 lbs.	24.1%
Clyde Line, Charleston & Ga. R. R. & A. & W. P	21,687 lbs.	1.1%
Other lines, Ga. R. R. & A. & W. P. R. R.	30,725 lbs.	1.6%
Southern Ry. & A. & W. P. R. R.	468,878 lbs.	24.6%
Seaboard Air Line & A. & W. P. R. R.	62,358 lbs.	3.3%
Total	1,909,355 lbs.	100

243 19. Q. What was the total freight tonnage received at Opelika via the Atlanta & West Point Railroad during the year ending June 30, 1896, excluding fertilizers?

A. 4,710 tons.

30. Q. Do you know and can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Cross-examination by Mr. SHAVER:

1. Q. Are the freight earnings of the Atlanta & West Point Railroad Company and the Western Railway of Alabama compiled by you personally?

A. No, sir; under my charge.

2. Q. You stated that they were compiled from copies of the original waybills. Have you compared the copies with the original waybills?

A. No, sir.

3. Q. You do not, then, personally know whether they are accurate copies or not?

A. Not by comparison.

4. Q. Do the original waybills pass through your hands?

A. No, sir.

5. Q. You stated that the gross revenue of the Western Railway of Alabama and the Atlanta & West Point Railroad companies per annum on tonnage moved by the Clyde Steamship Company to Charleston and then to Augusta, and thence via the Georgia Railroad Company to Atlanta, would be reduced $49.99 if the rates on freight from New York, Philadelphia, etc., to Opelika were made on the same basis as the rates from those cities to local stations on the Atlanta & West Point Railroad and the Western Railroad of Alabama. How did you arrive at that particular sum—$49.99?

A. By applying the reduction to the waybills and taking the original figures as they read, and the difference between the two.

5. Q. Did you examine the waybills yourself?

A. No, sir; can not examine them all. I examined some, but the majority of them I did not.

6. Q. You stated that on such an adjustment as is referred to in the previous question—such an adjustment of rates—the gross freight revenue of said railroad per annum derived from the tonnage moved by all the routes from New York, Philadelphia, &c., to Opelika would be $647.76.

244 A. Yes, sir.

7. Q. How did you arrive at those figures?

A. By applying an adjusted rate to the waybills—the same as I arrived at the other—take the difference between the original and what the adjustment would be.

8. Q. Did you yourself apply the rate to the waybills?

A. No, sir.

9. Q. You stated that the gross freight revenue of said railroads derived from the tonnage moved by the Clyde Steamship Company to Charleston,

thence to Augusta, and thence via the Georgia Railroad to Atlanta would be reduced to the extent of $152.68 per annum if the rate on freight from New York, Philadelphia, &c., to local stations on the Atlanta & West Point Railroad were made on the same basis as the rate from New York, Philadelphia, &c., to Opelika. How did you arrive at that result?

A. By applying the proportion that would be accruing to those stations based on the Opelika rates—the difference between that and the original billing.

10. Q. You stated that upon the same adjustment of rates as referred to in the last interrogatory the gross freight revenue of said railroads per annum derived from the entire tonnage moved by all routes from New York, Philadelphia, &c., to said local stations would be reduced to the extent of $3,180.12. How did you arrive at that amount?

A. By applying the same process as in the previous answer.

11. Q. You named Atlanta, Montgomery, Opelika, and Selma as competitive points on said roads. What do you mean by "a competitive point"?

A. Well, a point where two or more railroads compete for the business.

12. Q. Do not two or more railroads also compete for business to Newnan and Lagrange?

A. I do not know whether they do or not.

13. Q. Is not Newnan situated on more than one road?

A. Yes, sir.

14. Q. What other roads besides the Atlanta & West Point?

A. There is a portion of the Central, one of the divisions of the Central of Georgia Railway.

15. Q. That road passes through Newnan, does it not?

A. Yes, sir.

16. Q. Does not Newnan by means of that branch of that Central of Georgia Railway have connection with a number of lines from New York and other Eastern cities?

245 A. Well, I suppose it would be the Central, but it would be a very much longer haul, I suppose, than ours. I am not familiar really with that territory. I know the Central runs in there, but I do not know that they compete with us for any business really.

17. Q. What other railroads is Lagrange on besides the Atlanta & West Point?

A. The Mobile & Birmingham, but I do not think they compete for eastern business.

18. Q. You stated that on an adjustment of rates on interstate freight to and from all local stations on the Western Railway of Alabama, and the Atlanta & West Point Railroad, so as not to exceed the rate to and from said competitive points, Selma, Opelika, Montgomery, and Atlanta, through which the business passes, the effect would be that the gross revenue of said railroads per annum would be reduced $62,331.56. How did you arrive at that result?

A. That is arrived at by the same process as the others, by revising the billing and allowing the proportions accruing to those stations that would accrue to the competitive point—the difference between the reduction and the original billing.

19. Q. If the rate from New York and other northeastern cities to Newnan, Grantville, Hogansville, Lagrange, and West Point were so

reduced as not to be made higher than New York and Atlanta rates, would not the business at these points be increased?

A. I can not answer that. I really can not say whether it would or not. I can not tell from any statement that I have prepared whether it would or not. Possibly if I got a chance to refer to the dates when the rates were lower, if they ever were, and make a comparison of the business at that time with the present time, I might be able to answer that, but I was not asked that question.

20. Q. In making the estimates or calculations which you have made as to the effect of a different adjustment of rates in reducing the revenue of the Atlanta & West Point Railroad and the Western Railroad of Alabama, did you take into consideration the fact that the reductions of the rates to those points might result in an increase of business to those points?

A. No, sir.

21. Q. In the event of Atlanta and Opelika merchants selling goods at West Point, Lagrange, Hogansville, Grantville, and Newnan and in territory adjacent in competition with the local merchants at these points, would not the merchants at those intermediate points be greatly
246 benefited in that competition by a reduction of the rates to those points so as to make them not higher than the rate to Atlanta and Opelika?

A. I do not know. I do not know that I can answer that question. I could not answer it from any information I have in my department.

22. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. I do not know. I really can not answer that.

23. Q. Is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at such points and an increase of its population?

A. I can not answer that. I have had no experience in that line.

24. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other, benefit the one and injure the other?

A. I should think it would, but I do not know positively; but I should think it would.

25. Q. Do not transportation rates enter into and affect the price of goods on which said rates are charged?

A. I do not know.

26. Q. Do not lower prices of goods bring such goods within reach of a greater number of people and thus increase the consumption of such goods?

A. I should think it would. I do not know, though.

27. Q. Would not the prosperity of a road be promoted to a greater extent by the prosperity of the local stations along its entire line than by the prosperity of a few widely separated trade centers or competitive points?

A. I should think it would.

28. Q. The loss which you testify would result from a certain adjustment of rates, in answer to the direct interrogatories 11 and 12, were made by compilation, I believe, you stated?

A. Yes, sir.

29. Q. Was that compilation made by you?

A. No, sir; not personally.

30. Q. By whom was it made?

A. I really can not tell. There are three or four men—it was made under my direction, though. Some of it was made by myself.

247 31. Q. Did you examine their calculations?

A. Not all of them; no, sir.

32. Q. These figures are mere estimates, are they not?

A. They are very accurate for the month we got them up. Of course they are an estimate for the year.

33. Q. For what month did you say they were gotten up?

A. The month of January.

34. Q. The freight moved during the different months of the year varies, does it not?

A. Yes, sir.

35. Q. During what part of the year is the greatest tonnage of freight moved?

A. Well, the heaviest part of the year—that varies on our road on account of the cotton business.

36. Q. When does the movement of cotton commence?

A. It commences about the first of September and lasts way into the summer.

37. Q. That movement is north?

A. North and some of it south—north and south. It is shipped to Savannah and New Orleans and thence to the North.

38. Q. Is not cotton moved south to Opelika and points between Opelika and Atlanta?

A. There is cotton moved south by Opelika and from points between Atlanta and Opelika.

39. Q. What season of the year is the greatest amount of freight from New York and other northeastern cities to Newnan, Grantville, Hogansville, La Grange, and West Point and Opelika moved?

A. That I could hardly tell. There is not much of it anyhow, as you see from those figures. It is hard to estimate. The business is so light, take any one season, and it would not amount to much.

40. Q. What season do you move most goods from New York and other northeastern cities to Opelika, Montgomery, and Selma?

A. The fall of the year.

41. Q. What month?

A. Say from about the 1st of September on the movement is pretty—say from October—say for six months from the 1st of October.

42. Q. October, November, December, January, February, and March?

A. Yes, sir; of course the shipments also of dry goods varies

248 in the different seasons. I think the month of January that we selected is about as good a month on our line to give a general movement as any month we could pick out.

43. Q. How does the movement of the remaining six months of the year compare with those six months of October, November, December, January, February, and March?

A. You mean by per cent?

44. Q. Yes, sir.

A. It would probably run between 60 and 70 per cent of those six months.

Redirect examination by Mr. BAXTER:

1. Q. How many books are kept in your office in which to keep the accounts and compile the statistics of your companies—about how many?

A. To compile statistics?

2. Q. And to keep accounts, both.

A. Probably twenty books of different kinds.

3. Q. How many waybills, vouchers, agents' reports, and other papers are examined daily in your office to keep the accounts, compile the statistics of your company—about how many?

A. I have no idea how many waybills we run a month. I could not form an idea. Probably between fifteen or twenty thousand waybills a month. Fully that many I suspect.

4. Q. How many clerks or other employees are employed in your office to keep said accounts and compile said statistics?

A. Twelve; that does not include myself.

5. Q. Are they or not under your supervision and control?

A. Yes, sir.

6. Q. Were the complications which you have referred to in your testimony in this case made by those clerks and employees under your personal direction and supervision?

A. Yes, sir; they are very competent men, too.

NASHVILLE, TENNESSEE, *July 22, 1897.*

GEORGE P. BILES, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. George P. Biles, 40; occupation, general freight agent of the Cincinnati, New Orleans and Texas Pacific Railway Company; residence, Newport, Kentucky.

249 2. Q. How long have you been connected with the railroad freight transportation business in the United States and in what capacities?

A. Since 1884, in various capacities, such as rate clerk; afterwards assistant general freight agent and since October, 1895, general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, etc., to Newnan, Grantville, Hogansville, Lagrange, and West Point more than to Opelika. The rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, West Point and Opelika were in November, 1892, as follows:

[Rates in cents per 100 lbs.]

	Classes.												
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	R.	Per bbl. F.
Newnan, Ga	131	111	98	83	69	56	....	....	....	....	....	73	....
Grantville, Ga	147	128	114	97	80	64	....	....	....	....	....	84	....
Hogansville, Ga	151	131	116	100	81	65	....	....	....	....	....	87	....
Lagrange, Ga	154	135	118	102	82	66	....	....	....	....	....	88	....
West Point, Ga	142	124	110	93	77	62	....	....	....	....	....	83	....
Opelika, Ala	114	98	86	73	60	49	36	48	40	39	58	64	70

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Newnan, Grantville, Hogansville, Lagrange and West Point so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. If the freight rates were reduced from New York, Philadelphia, etc., to Newnan, Grantville, etc., it would not, in my opinion, have the effect of increasing or building up traffic at those points to any appreciable extent. My reason for this opinion is that the rates would not have the effect of materially increasing the consumption of articles used at those points and adjacent territory. The amount of business at those points is not of great volume because of the limited population.

250 4. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned classes of freight from New York, Philadelphia, etc., to Opelika, Alabama.

A. I am unable to enumerate all the lines which in 1892 competed from New York, Philadelphia, etc., in the transportation to Opelika, Alabama, for freight classified under the numbered and lettered classes. The following lines are some of the all-rail lines, and rail-and-water lines which now compete for this business. Some of them also competed for this traffic in 1892.

All rail routes:

The Richmond and Danville Despatch.

The Atlantic Coast Despatch.

The Seaboard Despatch.

The Southern States Despatch.

The Shenandoah Despatch.

Rail and water routes:

The Virginia and Tennessee Air Line.

The Pennsylvania Southern Line.

The Piedmont Air Line.

The Seaboard Air Line.

The Mallory Line.

The Merchants and Miners Transportation Company.

The Atlantic Coast Line.

The Clyde Line.

The Ocean Steamship Company.

5. Q. State what transportation lines actually and actively competed in 1892 and now compete for the transportation of the above-mentioned

classes of freight to Opelika from cities other than New York and Philadelphia?

A. I can not enumerate all of the transportation lines that competed in 1892 and which now compete for the transportation of freight to Opelika, Alabama, from cities other than New York and Philadelphia. I give below the names of some of the lines which competed in 1892 and which now compete for the transportation of traffic from the Ohio River crossings as named to Opelika.

From Cincinnati, Ohio:

The Cincinnati, New Orleans & Texas Pacific Railway.

The Louisville & Nashville Railroad.

251 From Louisville, Kentucky:

The Louisville & Nashville Railroad.

In 1892 the Louisville Southern Railroad, now known as the Southern Railway in Kentucky.

In 1892 the Chesapeake, Ohio and Southwestern Railroad, now known as the Illinois Central Railroad (Louisville division).

From Evansville, Indiana:

The Louisville & Nashville Railroad.

The Ohio Valley Railway.

From Owensboro, Kentucky:

The Louisville & Nashville Railroad.

In 1892 the Louisville, St. Louis & Texas Railroad, now known as the Louisville, Henderson & St. Louis Railroad.

From Henderson, Kentucky:

The Louisville & Nashville Railroad.

The Ohio Valley Railway.

From Paducah, Kentucky:

In 1892 the Chesapeake, Ohio & Southwestern Railroad, now known as the Illinois Central Railroad (Louisville division).

In 1892 the Paducah, Tennessee & Alabama Railroad, now known as the Nashville. Chattanooga & St. Louis Railway.

From Cairo, Illinois:

The Illinois Central Railroad.

The Mobile & Ohio Railroad.

Numerous transportation lines northeast and west of the Ohio River, as well as lines from the South Atlantic ports and Gulf ports and various Mississippi River crossings, competed in 1892 and now compete for the transportation of freight to Opelika, Alabama.

6. Q. State whether or not the rates on the above-mentioned classes of freight from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Opelika are controlled to any, and if so to what, extent by competition.

A. The rates of freight from New York, Philadelphia, etc., to Opelika, Alabama, are controlled to a very great extent by competition. The rail lines themselves form such competition, and competition exists between the various water-and-rail lines. The water-and-rail lines produce competition as between themselves and the all-rail routes. The rates

252 on the various classes of freight from the East are competitive to a greater or less extent with the rates on similar commodities shipped from Northern, Western, and Southern cities to Opelika.

7. Q. State whether or not the above-mentioned rates from New York, Philadelphia, etc., via Charleston, Augusta, and Atlanta to Newnan, Grantville, Hogansville, Lagrange, and Westpoint are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. In my opinion the rates from New York, Philadelphia, etc., to Newnan, etc., are just and reasonable within themselves. My reason for this opinion is that the rates from and to the points named are relatively in line with the rates existing from New York, Philadelphia, and other Eastern cities to other points similarly located in that section of the country.

8. Q. State whether the competition between carriers, whether by rail or by water, substantially effects the circumstances and conditions under which the transportation of freight is conducted.

In my opinion competition between carriers either by rail or by water substantially effects directly or indirectly, in a number of ways, the circumstances and conditions under which the transportation of freight is conducted. For example, where two or more rail transportation lines compete with each other for freight traffic from and to certain points one of the lines may inaugurate a special fast train service for the handling of business with a view of securing the bulk of the movement. Such action will ultimately force its competitors to do likewise in order to secure some of the freight, and at an additional cost which such quick service would bring about.

9. Q. State whether there is any competition at Newnan, Grantville, Hogansville, Lagrange, and Westpoint as affects rates like competition which exists at Opelika.

A. There is no such competition at Newnan, Grantville, Hogansville, etc., except as to the extent as the competition between two or more carriers may exist to Opelika, Atlanta, which points are used for constructing rates to local points on the Atlanta & West Point Railroad. Of course, any reduction which may take place in rates to Opelika or Atlanta would bring about relative reductions in rates to local stations on the Atlanta & West Point Railroad. In other words, such local stations would have the same benefit or the same relative reduction in rates as Atlanta and Opelika.

10. Q. Do you know or can you set forth any other matter or
253 thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I do not think of anything further I can say in regard to this.

Cross-examination by Mr. SHAVER:

1. Q. You read your answers to the direct interrogatory from a manuscript before you. How long is it since you prepared those answers?

A. June 22nd.

2. Q. Were you furnished with the interrogatories before?

A. Yes, sir.

3. Q. In the event Opelika and Atlanta merchants trade at Westpoint, Lagrange, Hogansville, Grantville, and Newnan and in the adjacent

territory in competition with the local merchants at those points, would not a reduction in the rates from New York and other Eastern cities to Newnan, Grantville, Hogansville, Lagrange, and Westpoint so as to make their rates not higher than the Atlanta and Opelika rates be of great benefit Newnan, Grantville, Hogansville, Lagrange, and Westpoint in that competition?

A. Such a course would, I think, give the local merchants at those points some benefit.

4. Q. Does not the prosperity and growth of a locality depend largely or to some extent on the prosperity of its merchants and business men?

A. Well, that depends upon circumstances. It would be reasonable to suppose, I imagine, that if the merchants were tolerably successful that it would have some influence on the community in some cases, but not in all cases.

5. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at such points?

A. Not necessarily.

6. Q. My question was, as a general rule, and in the absence of exceptional conditions, was not the natural tendency of a material reduction in rates towards improving and increasing the business of such point?

A. Well, that, again, depends on circumstances. Probably in limited cases it might have some general improvement, but I venture to say that to a large number of towns a general reduction in the rates would
254 have no material effect. The transportation rates must be of such nature as to enable the carrier to give good service to these particular points. If the rates are reduced to a basis which might be only reasonably remunerative and in some cases hardly remunerative, why it appears to me that the carriers could not be as anxious, probably, to give as effective services, whereas if the rates were fair it would enable them to give thoroughly good services, and at the same time in the building up of a community the railroad companies and the carriers themselves are a very important factor.

7. Q. You say that in the building up of a community railroads and carriers are a very important factor. Do not, therefore, the rates of transportation established by carriers have some effect in building up a community?

A. That depends, again. In a large number of cases in the South a reduction in the rates would scarcely have any effect whatever. As I said before, it does not follow that because transportation rates may be reduced that it would result in bringing about a new state of affairs to any marked degree.

8. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of these localities and discriminatory against the other benefit the one and injure the other?

A. Well, if you are speaking of localities as sections of the country, I think probably that might have some effect.

9. Q. Do not the rates of transportation affect and enter into prices of goods on which those rates are charged?

A. Yes, sir, in some cases, but in a large number of cases the transportation rates do not affect the price of the articles that are sold over the counter in the store of a retail merchant.

10. Q. In this case where you state the rates do not affect the price of the article sold over the counter to the consumer, do they not affect the cost of the article to the merchant?

A. Yes, sir; it affects the cost of the article to the merchant, but the consumer does not get the benefit. As a rule, if the reduction is made in the transportation rates, why the merchants get the benefit of it, and not the consumer.

11. Q. Do not lower prices of goods tend to bring the goods within the reach of a greater number of people, and thus increase the consumption of such goods?

A. There may be some truth in that, but transportation rates would not have that effect, because transportation rates are made per hundred pounds, whereas the articles, as a rule, are sold by weight or by
255 measurement. Therefore a reduction of a few cents per hundred pounds would not bring about any reduction or change in the retail price of those articles.

12. Q. Does not the prosperity of a road depend more upon the prosperity of the local stations along its entire line than on that of a few widely scattered trade centers or basing points?

A. A great many of the carriers have practically no local business. They have to depend on their through business. Other carriers have a fair local business, and of course a percentage of the gross earnings is due to local traffic. I believe that a great many of the carriers make special efforts to get people to emigrate. That is being done all over the South, with sometimes satisfactory results, and others fail to carry their point in this respect.

13. Q. Would not a system of rates which would tend to build up business at the local stations along the entire line of the road contribute more to the prosperity of a road than a system which discriminates against such localities in favor of widely separated trade centers or basing points?

A. That is a difficult question to answer. It depends entirely upon the circumstances and conditions forced. My experience is that reduced rates that have been or may be put in effect at local stations do not bring about satisfactory results. That is, it does not bring business there. People are not there, and they do not go there and would not go no matter what rates you may establish, whether it is the one dollar per hundred or fifty cent per hundred. It has no effect whatever.

14. Q. That is not an answer to my question. My question was whether a system of rates which would build up business at local stations along the entire line of the road contributed more to the prosperity of the road than a system which builds up widely separated trade centers or basing points at the expense of the intermediate points or territories?

A. You say a system of rates which would build up. I do not know that any system of rates could be put in effect which would build up the business of the local points, as against the trade centers that you mention; I will say in explanation of that, that so far as the Cincinnati, New Orleans and Texas Pacific Railway Company is concerned, it does not

charge higher rates to intermediate points in Tennessee than at Chattanooga, Tennessee. But it has not had the effect of increasing the local business of these points, and that has not been a question of one year or two years. I have not seen any remarkable, in fact I have not seen any increase in business, and so far as my knowledge goes I do not believe that the reduction to the local stations which may be practically
256 the same as to these trade centers would bring about what you may term a general marked improvement at these local stations. People flock to these trade centers all the time. They do not care to get off in the country.

15. Q. You said that the Cincinnati, New Orleans and Texas Pacific Railway Company makes no greater charge for the shorter than the longer haul at any point on its lines between the Cincinnati and Chattanooga. Does that road meet competition at Chattanooga?

A. Yes, sir; in transportation from Cincinnati.

16. Q. Does it not come in competition with the Louisville and Nashville Railroad and the Nashville, Chattanooga and St. Louis Railway, in transportation between Cincinnati and Chattanooga?

A. Yes, sir.

17. Q. You have testified that, in your opinion, the rates from New York and other Eastern cities to Newnan, Grantville, Hogansville, Lagrange, and West Point are just and reasonable in and of themselves. Is it also your opinion that the lower rates for the longer haul through those points to Opelika are just and reasonable in and of themselves?

A. I think so.

18. Q. Would those rates to Opelika be made higher but for competition?

A. I imagine they would.

19. Q. Do the Opelika rates give the carrier revenue in excess of the cost of the service of carriage?

A. I think they do.

20. Q. Is a rate in your opinion reasonable in and of itself which does not yield a carrier a proper remuneration over and above the cost of the service of carriage?

A. I should say not.

21. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of the carriage?

A. That is a very hard matter to determine. It is a very difficult matter to decide or to fix your rate as compared with the cost of service of operation. There are so many conditions surrounding this rate situation in regard to that, that is a very difficult thing to form.

22. Q. Can it be ascertained whether a rate yields to the carrier an increase over and above the cost of the service of carriage without first ascertaining the cost of that service?

A. I think myself that that depends somewhat upon experience. If a new railroad is opened up, it has to fix its rates, we will say, to
257 local points, to enable that carrier to meet the cost of operation. Now, the cost of operation has not been fixed, so, therefore, the rates will have to be fixed by the management as they will feel will bring about the desired result—I mean from a revenue standpoint, and which

will meet all the expenses. On the other hand, again, those rates may not be high enough to meet these expenses.

23. Q. Does not the cost or the expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. If you mean by that question if freight can be handled for a longer distance for a less rate per ton per mile——

24. Q. I did not refer to the rate per ton per mile.

A. You referred to the distance, I understand.

25. Q. I will read the question again. (Counsel here repeated the question.)

A. I would like for you to explain that to me—what you mean by that.

26. Q. Well, all other things being equal, and the rate of speed being the same, the length of the train being the same, the quantity of the cars being the same, &c., would it not cost more to transport the train twenty miles than ten?

A. It would probably cost more in the aggregate.

27. Q. That is what I mean, in the aggregate; I do not refer to cost per mile.

A. It will cost more to run a train of twenty cars three hundred miles than a train of twenty cars fifty miles.

28. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Of course it takes longer for a train to go a hundred miles at the rate of fifty miles per hour than it does to go fifty miles.

29. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Yes, sir.

30. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, &c., greater the greater the length of the haul?

A. Yes, sir.

31. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. Yes, sir.

32. Q. Does it not require more locomotives and cars and crews for running trains on a long road than on a shorter road?

258 A. Do you mean in the aggregate or do you mean as compared with the distance?

If you mean in the aggregate, I suppose it will cost more for the longer road than for the shorter road.

33. Q. I asked does it not require more locomotives and cars and crews for running trains on a long road than on a short one?

A. Yes, sir.

34. Q. Other things being equal, does not distance add to the cost of building a road, and are not therefore the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Yes, sir.

35. Q. Is not the expense to the carrier on strictly local hauls greater per ton per mile than on a long through haul?

A. Yes, sir; I should say so.

36. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and Ohio River?

A. Since 1884.

36½. Q. Has the greater charge for the shorter than the longer haul over the same line, in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer-distance point?

A. I do not know that I do.

37. Q. Were not the rates from Opelika to New York and other Eastern cities in 1892 and are not those rates now the same by all the all-rail lines?

A. I can not answer that. I am not certain as to whether the rates were the same in 1892 as they are to-day.

38. Q. I did not ask that question. I asked if the rates by all the all-rail lines to Opelika were not the same in 1892, and are they not so now?

A. As I understand it, you asked me the question whether the rates in 1892 were the same by all the all-rail lines.

39. Q. By all the all-rail lines.

A. I think they were.

40. Q. Are they not the same now by all the all-rail lines?

A. It is fair to assume that they are.

41. Q. Was not the rate from New York and other Eastern cities to Opelika in 1892 the same by all the sea and rail lines?

A. I can not say positively as to that.

259 42. Q. Are not those rates the same now by all the sea and rail lines?

A. I think they are.

43. Q. Were not the rates which were in force in 1892 to Opelika established by the Southern Railway and Steamship Association?

A. I am not positive as to that.

44. Q. Was not Opelika recognized as a competitive point in the territory subject to what was called the jurisdiction of the Southern Railway Steamship Association in 1892?

A. Well, I cannot say positively as to that, but I believe it was.

49. Q. Are not the rates from Opelika to West Point, Hogansville, Grantville, La Grange, and Newnan local rates?

A. Yes, sir; they are local rates from those junction points to those intermediate points.

46. Q. Are not the rates from Atlanta to Newnan, Grantville, Hogansville, La Grange, and West Point local rates?

A. I am somewhat in doubt as to West Point, but as to the other points the rates are local from Atlanta.

47. Q. Are not the rates from New York and other Eastern cities to Newnan, La Grange, Grantville, Hogansville, and West Point made up of the through rate from New York to Atlanta or Opelika plus the local rate on from Atlanta or back from Opelika, as the case may be, to those intermediate points?

A. Yes, sir; to all points, with probably the exception of West Point.

I do not know whether the rate to West Point was based on what they call the local rate plus the rate to the junction points or not. I think probably the rates to West Point were made on what may be termed "fixed differentials" from Atlanta to Opelika, but I am not certain about that.

48. Q. You named in your direct examination a number of lines which may be formed and which you stated competed for business from various directions to Opelika. Can not all those lines also be formed to Newnan, Grantville, Hogansville, La Grange, and West Point by combinations with the Atlanta & West Point Railroad?

A. Yes, sir.

49. Q. Is not traffic transported from New York and other Eastern cities on through bills of lading naming through rates issued by the initial carrier at New York and such other Eastern cities?

A. Yes, sir.

50. Q. Do the agents of the Cincinnati, New Orleans and
260 Texas Pacific Railway Company solicit business for Newnan, Grantville, Hogansville, La Grange, and West Point?

A. Yes, sir.

51. Q. Do they not advertise the rates to such points in their printed tariffs and rate sheets?

A. They do.

52. Q. Does not the Cincinnati, New Orleans and Texas Pacific Railway Company compete with the Louisville & Nashville Railroad and other carriers and lines for business to Newnan, Grantville, Hogansville, La Grange, and West Point?

A. Yes, sir.

53. Q. Are not Newnan and La Grange on other roads than the Atlanta & West Point road?

A. Newnan, I believe, is on the Atlanta & West Point Railroad and the Central of Georgia Railway. La Grange is on the Atlanta & West Point Railroad and the Macon & Birmingham Railroad.

54. Q. Do not those other roads at La Grange and Newnan connect with lines for transportation to New York and other Eastern cities?

A. That is the case so far as Newnan is concerned. I am in doubt as to a route from the East to La Grange by way of the Macon & Birmingham Railroad?

55. Q. Does that road extend to Macon?

A. Yes, sir.

56. Q. Is not there a route from Macon to Eastern cities—a rail line or rail and water line?

A. Well, as the line extends from Macon, I do not know that there is anything to prevent business from the East to La Grange by way of the Macon and Birmingham Railway.

Redirect examination by Mr. BAXTER:

1. Q. What is the distance from Cincinnati to Chattanooga via the Cincinnati, New Orleans and Texas Pacific Railway Company?

A. 336 miles.

2. Q. How are rates made from Cincinnati to local stations on the Cincinnati, New Orleans and Texas Pacific Railway between Cincinnati and Chattanooga? Do they increase with the distance?

A. Yes, sir; according to distance.

3. Q. At what distance from Cincinnati on the Cincinnati, New
261 Orleans and Texas Pacific Railway Company do the rates which are proportioned to distance become as high from Cincinnati as are rates from Cincinnati to Chattanooga?

A. Well, probably on some classes we may meet the Chattanooga rates at the distance of 125 miles south of Cincinnati. On other classes it may be 140 miles.

4. Q. At those local stations on the Cincinnati, New Orleans and Texas Pacific Railway, between Cincinnati and Chattanooga, at which rates are as high as the rates from Cincinnati to Chattanooga, do the merchants at said local stations purchase their goods at Cincinnati or Chattanooga, or do they purchase them in the Eastern markets?

A. The purchases are made at various points. I do not think the merchants at the local stations on the Cincinnati, New Orleans and Texas Pacific Railway buy their goods in the Eastern markets. They get them from Chattanooga or from Knoxville or from Cincinnati or from Louisville. They do not go so far for markets for their goods.

5. Q. What is the reason that they do not, if you know?

A. Well, I do not know exactly, except they have been in the habit of purchasing their goods from these various nearby trade centers and probably do not care to make any change.

6. Q. They have established their credit and commercial relations with the cities located near to them?

A. Yes, sir. They exchange their freight, you know; they buy from the man in Chattanooga and they sell him something in return.

Recross-examination by Mr. SHAVER:

1. Q. Do you know, of your own personal knowledge, that the merchants at these points intermediate between Cincinnati and Chattanooga, which have the same rates as Chattanooga, do not buy their supplies of goods at Cincinnati and Ohio River points or in the East—in New York or other Eastern cities?

A. Well, I have not in view all merchants of the various towns along the lines of the road, but I think I am correct in stating that they buy chiefly from Cincinnati, Chattanooga, and Louisville.

2. Q. Chiefly?

A. Yes, sir. Of course they buy certain things at points, say, in Ohio, Indiana, and off the Ohio River, like agricultural implements and something of that sort, but I think their boots and shoes and provisions generally are bought at these other towns that I have mentioned.

3. Q. Has the Cincinnati, New Orleans and Texas Pacific
262 Railway Company suffered any great loss or material loss from charging rates to these intermediate points not higher than the rates to Chattanooga?

A. Well, we have suffered loss to the extent of the difference between the rates that are now in effect and higher rates which were in effect some years ago.

4. Q. How long since the Cincinnati, New Orleans & Texas Pacific Railway Company ceased charging higher rates to those intermediate points than to Chattanooga?

A. It was several years ago, but I can not tell you just exactly when it was.

Re-redirect examination by Mr. BAXTER:

1. Q. Is not the Cincinnati, New Orleans & Texas Pacific Railway Company in the hands of a receiver?

A. Yes, sir.

I, Frank Lyon, who was agreed upon by counsel for both parties, to act as special examiner, as set forth in their foregoing stipulation, do hereby certify that I faithfully and truly and correctly took the testimony of the above-named witnesses in shorthand and afterwards reduced it to typewriting, and that the foregoing pages contain a full, true, and correct report of the testimony given by each of said witnesses.

This 6th day of August, 1897.

FRANK LYON,

Acting Special Examiner, 1317 F street N. W., Washington, D. C.

* * * * * * *

267 EXHIBIT No. 2.

(See testimony of Van den Burg, p. 6.)

From May 20th to June 20th. Sold to arrive via Clyde Line.

	Cars.
From Voight Milling Co., Grand Rapids, Mich., flour	11
Hicks Browns M. Co., Mansfield, O., flour	6
Northwestern Col. Co., Minneapolis, Minn., flour	10
Northwestern Col. Co., Minneapolis, Minn., bran	4
Pillsbury, Washburn M. Co., Minneapolis, bran	5
Chicago H. Mills, Chicago, grits	10
Lee Mllg. Co., Wilmington, Del., grits	5
Hedbut & Co., Terre Haute, grits	28
J. & S. Emerson, Vincennes, grits	7
H. H. McCord & Sons, New York, corn	21
Calumet G. & E. Co., Chicago, corn	10
Calumet G. & E. Co., oats	10
Piel & Co., Indianapolis, starch	12
E. & W. H. Lipe, New York, hay	23
Pillsbury, W. M. Co., Minneapolis, flour	7
Washburn, Crosby & Co., Minneapolis, flour	6
Armour & Co., Chicago, soap	4
Armour & Co., Chicago, lard	3
Armour & Co., Chicago, meat	1
Total carloads	183

Freight tariff classes and classified list of railroads in Georgia.

Freight tariff classes, percentages.

Each company doing business as a common carrier in this State is allowed to apply the standard freight tariff, subject to the conditions of the tariff class below in which such company is placed.

Class No. 1.

The standard tariff without percentage.

Class No. 2.

To classes 1, 2, 3, 4, 5, 6, A, B, E, G, H, K, L, M, N, O, and R add ten per cent to commissioners' standard tariff.

268 To classes C, D, F, J, and P apply the commissioners' standard tariff.

Class No. 3.

On classes 1, 2, 3, 4, 5, 6, A, E, G, H, L,* N, O, the standard tariff with twenty per cent added.

On classes B, K, M, R, the standard tariff with ten per cent added.

On classes C, D, F, J, and P, the standard tariff without percentage.

*On lime and ice, the standard tariff with ten per cent added.

Class No. 4.

On classes 1, 2, 3, 4, 5, 6, A, E, G, H, L,* N, O, the standard tariff with twenty-five per cent added.

On B, K, M, R, the standard tariff with ten per cent added.

On classes C, D, F, J, and P, the standard tariff without percentage.

*On lime and ice, Class L with ten per cent added.

Class No. 5.

Add twenty-five per cent to all classes except C, D, F, J, and P.

Class No. 6.

On classes 1, 2, 3, 4, 5, 6, A, B, E, G, H, K, L,* M,* N, O, and R*: For 40 miles and under, the standard tariff with fifty per cent added; for 70 miles and over 40 miles, the standard tariff with forty per cent added; for 100 miles and over 70 miles, the standard tariff with thirty per cent added; over 100 miles, the standard tariff with twenty per cent added.

*On fertilizers, L. C. L., Class K, with ten per cent added for any distance.

*On fertilizers, C. L., Class M, with ten per cent added for any distance.

*On turpentine, Class R, with ten per cent added for any distance.

*On classes C, D, F, J, and P, the standard tariff without percentage.

*On lime and ice, the standard tariff with ten per cent added.

Class No. 7.

269 On classes 1, 2, 3, 4, 5, 6, A, B, E, H, and K, commissioners standard tariff with fifty per cent added.

On Classes C, D, F, G, J, L, M, N, O, and R, commisssioners' standard tariff with twenty-five per cent added.

On Class P, commissioners' standard tariff.

Classified list of railroads in Georgia.

[For freight tariffs, see corresponding numbers on opposite page.]

Class No. 1. (No. of roads, 4.)

Alabama Great Southern.
Georgia (except G., J. and S. branch).
Lexington Terminal.
Western and Atlantic.

Class No. 2. (No. of roads, 3.)

Atlanta and Westpoint.
Hartwell.
Seaboard Air Line.

Class No. 3. (No. of roads, 4.)

Douglas and McDonald.
Florida Central and Peninsular.
Plant System (all lines).
Tifton and Northeastern.

Class No. 4. (No. of roads, 7.)

Central System (all lines except Savannah and Atlantic).
Chattanooga, Rome and Columbus.
East and West.
Lawrenceville.
Marietta and North Georgia.
Northeastern of Georgia.
Southern Railway System (all lines).

Class No. 5. (No. of roads, 3.)

Gainesville, Jefferson and Southern (branch Georgia Railroad).
270 Smithsonia and Dunlap.
Talbotton.

Class No. 6. (No. of roads, 32.)

Abbeville and Waycross.
Albany and Northern.
Augusta Southern.
Augusta and Knoxville.
Blue Ridge and Atlantic.
Chattanooga Southern.
Chicamauga and Durham.
City and Suburban.
Columbus Southern.
Cuyler and Woodburn.
Darien and Western.
Foy Railroad.

Georgia and Alabama (formerly S. A. and M. Ry.).
Georgia Midland and Gulf.
Georgia Northern (formerly Boston and Albany).
Georgia Southern and Florida.
Hawkinsville and Florida Southern.
Indian Springs and Flovilla.
Louisville and Wadley.
Macon, Dublin and Savannah.
Macon and Northern.
Middle Georgia and Atlantic.
Midville, Swainsboro and Red Bluff.
Millen and Southern.
Oconee and Western.
Sandersville.
South Brunswick.
Stillmore Air Line.
Valdosta Southern.
Wadley and Mt. Vernon.
Waycross Air Line.
Wrightsville and Tennille.

Class No. 7. (No. of roads, 2.)

Dover and Statesboro.
Sylvania.

271 *Standard freight tariff—Classes.*

Distance.	Per 100 pounds.											Per bbl.	Per 100 lbs.	Per 100 lbs.
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	F.	G.	H.
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
5	12	11	10	8	7	6	6	6	4½	3½	7	9	2½	8
10	16	14	13	10	9	8	8	8	5½	5	9	11½	3¼	10
15	18	16	15	12	11	9	9	9	6	5½	11	12½	3½	12
20	20	18	16	14	12	10	10	10	7	6	12	14	5	14
25	22	20	18	16	13	11	11	11	7½	6½	13	15	5½	16
30	24	21	19	17	14	11	11	11	7½	6½	14	15	6	17
35	26	23	21	19	15	12	12	12	8	7½	15	16½	6½	19
40	27	24	22	20	16	12	12	12	8	7½	16	16½	6½	20
45	29	26	24	21	17	13	13	13	8½	8	17	17½	6½	21
50	30	27	25	22	18	13	13	13	8½	8	18	17½	7	22
55	32	29	26	23	19	14	14	14	9	8½	19	18	7	23
60	33	30	27	24	19	14	14	14	9	8½	19	18	7½	24
65	35	32	28	25	20	15	15	15	9½	9	20	19	7½	25
70	36	33	29	26	20	15	15	15	9½	9	20	19	7½	26
75	38	35	30	27	21	16	16	16	10	9½	21	20	7½	27
80	39	36	31	28	21	16	16	16	10	9½	21	20	7½	28
85	41	37	32	29	22	17	17	17	11	10	22	21½	7½	29
90	42	38	33	29	22	17	17	17	11	10	22	21½	8	29
95	44	39	34	30	23	18	18	18	11½	11	23	23	8	30
100	45	40	35	30	23	18	18	18	11½	11	23	23	8½	30
110	48	42	37	31	24	19	19	19	12	11	24	23	8½	31
120	51	44	39	32	25	20	20	20	13	12	25	24	8½	32
130	54	46	41	33	26	21	21	21	13	12	26	25	8½	33
140	57	48	43	34	27	22	22	22	13	13	27	26	9	34
150	60	50	45	35	28	23	23	23	14	13	28	28	9	35
160	62	52	46	36	29	24	24	24	14	13	29	29	9½	36
170	64	54	47	37	30	25	25	25	15	14	30	31	9½	37
180	66	56	48	38	31	26	26	26	15	14	31	31	9½	38
190	68	58	49	39	32	27	27	27	16	15	32	33	9½	39

272 *Standard freight tariff—Classes*—Continued.

Distance.	Per 100 pounds.											Per bbl.	Per 100 lbs.	Per 100 lbs.
	1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	F.	G.	H.
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
200	**70**	**60**	**50**	**40**	**32**	**27**	**27**	**27**	**16**	**15½**	**32**	**33**	**9½**	**9**
210	71	62	51	41	33	28	28	28	17	16	33	34	9½	9
220	72	64	52	42	33	28	28	28	17	16	33	34	10	9
230	73	66	53	43	34	29	29	29	18	17	34	36	10½	9
240	74	68	54	44	34	29	29	29	18	17	34	36	10½	9
250	**75**	**70**	**55**	**45**	**35**	**30**	**30**	**30**	**19**	**18**	**35**	**38**	**10½**	**9**
260	76	71	56	46	35	30	30	30	19	18	35	38	10½	9
270	77	71	56	46	36	31	31	31	20	19	36	40	10½	9
280	78	72	57	47	36	32	32	32	20	19	36	40	10½	9
290	79	72	57	47	37	32	32	32	21	19	37	42	10½	9
300	**80**	**73**	**58**	**48**	**38**	**33**	**33**	**33**	**21**	**19**	**38**	**42**	**11**	**9**
310	81	73	58	48	38	33	33	33	21	19	38	42	11	9
320	82	74	59	49	39	34	34	34	21	20	39	42	11	9
330	83	74	59	49	39	34	34	34	22	20	39	44	11	9
340	84	74	59	49	39	34	34	34	22	20	39	44	11	9
350	**85**	**75**	**60**	**50**	**40**	**35**	**35**	**35**	**23**	**21**	**40**	**46**	**11**	**10**
360	85	75	60	50	40	35	35	35	23	21	40	46	11½	10
370	85	75	60	50	40	35	35	35	23	21	40	46	11½	10
380	88	76	61	51	41	36	36	36	25	23	41	50	11½	10
390	88	76	61	51	41	36	36	36	25	23	41	50	11½	10
400	**88**	**76**	**61**	**51**	**41**	**36**	**36**	**36**	**25**	**23**	**41**	**50**	**11½**	**10**
410	91	77	62	52	42	37	37	37	26	24	42	52	11½	10
420	91	77	62	52	42	37	37	37	26	24	42	52	11½	10
430	91	77	62	52	42	37	37	37	26	24	43	52	11½	10
440	94	78	63	53	43	38	38	38	27	25	43	54	11½	10
450	**94**	**78**	**63**	**53**	**43**	**38**	**38**	**38**	**27**	**25**	**43**	**54**	**11½**	**10**
460	94	78	63	53	43	38	38	38	27	25	43	54	12	10

273 *Standard freight tariff—Classes.*

Distance.	Per 100 lbs.		Per ton.		Per carload.			Per 100 lbs.
	J.	K.	L.	M.	N.	O.	P.	R.
Miles.	*Cts.*	*Cts.*	$ *Cts.*	$ *Cts.*	$ *Cts.*	$ *Cts.*	$ *Cts.*	*Cts.*
5	8	4	.35	.55	5.00	5.50	4.00	4
10	10	5	.50	.80	6.50	8.00	5.00	5
15	12	5½	.55	.85	7.50	9.00	6.00	5½
20	13	6	.60	.90	8.00	10.00	7.00	6
25	14	6½	.65	.95	9.00	11.00	8.00	6½
30	15	7	.70	1.00	10.00	11.00	8.00	7
35	16	7½	.75	1.05	12.00	12.00	9.00	7½
40	17	8	.80	1.10	13.00	12.00	9.00	8
45	18	8	.85	1.15	14.00	13.00	10.00	8½
50	**19**	**8**	**.90**	**1.20**	**14.00**	**13.00**	**10.00**	**9**
55	20	8	.95	1.25	14.00	14.00	10.00	9
60	21	9	.95	1.30	14.50	14.00	11.00	10
65	22	9	1.00	1.35	15.50	15.00	11.00	10
70	22	9	1.00	1.40	16.00	15.00	11.00	11
75	23	9½	1.05	1.45	16.50	16.00	12.00	11
80	23	9½	1.10	1.50	17.00	16.00	12.00	12
85	24	9½	1.15	1.55	17.50	17.00	13.00	12
90	24	9½	1.15	1.60	18.00	17.00	13.00	13
95	25	10	1.20	1.65	19.00	17.00	14.00	14
100	**25**	**10**	**1.20**	**1.70**	**20.00**	**17.00**	**14.00**	**14**
110	26	10	1.25	1.80	21.00	18.00	14.00	15
120	27	10½	1.30	1.90	23.00	18.00	15.00	16
130	28	10½	1.35	2.00	24.00	19.00	16.00	17
140	29	11	1.40	2.10	25.00	19.00	16.00	18
150	**30**	**11**	**1.50**	**2.20**	**26.00**	**20.00**	**17.00**	**18**
160	31	12	1.60	2.25	27.00	20.00	17.00	19
170	32	12	1.70	2.30	28.00	21.00	18.00	19
180	33	12	1.80	2.35	29.00	21.00	19.00	20
190	34	13	1.90	2.40	29.50	22.00	19.00	20
200	**35**	**13**	**2.00**	**2.45**	**30.00**	**22.00**	**20.00**	**20**
210	36	13	2.10	2.50	31.00	23.00	20.00	21
220	37	14	2.20	2.55	31.50	23.00	21.00	21
230	38	14	2.30	2.65	32.00	24.00	21.00	21
240	39	14	2.40	2.65	33.00	24.00	22.00	22
250	**40**	**15**	**2.50**	**2.75**	**33.50**	**24.00**	**22.00**	**22**
260	41	15	2.60	2.75	34.00	24.00	22.00	22
270	42	15	2.70	2.85	34.50	25.00	23.00	22
280	43	16	2.80	2.85	35.00	25.00	23.00	23
290	44	16	2.90	2.95	36.00	25.00	24.00	23
300	**45**	**16**	**2.95**	**3.00**	**36.50**	**26.00**	**24.00**	**23**
310	46	17	3.05	3.10	37.00	26.00	24.00	23
320	47	17	3.05	3.20	38.00	26.00	24.00	24
330	48	17	3.15	3.30	38.50	27.00	25.00	24
340	49	17	3.15	3.40	39.00	27.00	25.00	24
350	**50**	**17**	**3.28**	**3.50**	**40.00**	**27.00**	**25.00**	**24**
360	51	17	3.28	3.50	40.00	27.00	25.00	24
370	52	17	3.28	3.50	40.00	27.00	25.00	24
380	53	18	3.41	3.60	41.00	29.00	27.00	26
390	54	18	3.41	3.60	42.00	29.00	27.00	26
400	**55**	**18**	**3.41**	**3.60**	**42.00**	**29.00**	**27.00**	**26**
410	56	19	3.54	3.70	44.00	31.00	29.00	28
420	57	19	3.54	3.70	44.00	31.00	29.00	28
430	58	19	3.54	3.70	44.00	31.00	29.00	28
440	59	20	3.67	3.80	46.00	33.00	31.00	30
450	**59**	**20**	**3.67**	**3.80**	**46.00**	**33.00**	**31.00**	**30**
460	60	20	3.67	3.80	46.00	33.00	31.00	30

274 ATLANTA & WEST POINT R. R.

Passenger, Class A (three cents per mile).
Freight, Class No. 2 (see page No. 64.)

Distance table.

ATLANTA	0
East Point	7
Manchester	9
Red Oak	12
Fairburn	19

Palmetto 25
Coweta 30
Powells 33
NEWNAN 39
Moreland 45
St. Charles 47
Grantville 51
Speers Spur 55
Hogansville 58
Whitfield 65
Lagrange 71
Gabbettville 80
WEST POINT 86

AUGUSTA & KNOXVILLE RAILROAD.

Passenger, Class A, (three cents per mile).
Freight, Class No. 6, (see page No. 64).

Distance table.

Augusta 0
Lulaville 9
Jenkins 12
Sneads 16

AUGUSTA SOUTHERN RAILROAD.

(Formerly Augusta, Gibson & Sandersville R. R.)

Passenger, Class A (three cents per mile). (Minimum passenger charge twenty cents.)
Freight, Class No. 6 (see page 64).

275 *Distance table.*

Augusta 0
Adam 5
Adventure 7
Gracewood 9
Richmond 11
Hephzibah 16
Bath 19
Blythe 22
Keysville 27
Noah 31
Matthews 32
Wren's 36
Stapleton 41
Avera 46
Gibson 51
Belle Springs 55
Mitchell 59
Agricola 62

Chalker	64
Warthen	71
Silas	78
Sandersville	80
Tennille	84

BLUE RIDGE & ATLANTIC RAILROAD.

Passenger, Class C (five cents per mile).
Freight, Class No. 6 (see page No. 64).

Distance table.

CORNELIA	0
Demorest	5
Clarkesville	8
Anandale	11
Turnerville	16
TALLULAH FALLS	21

302 *Final decree.*

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA Railway Company, The Louisville & Nashville Railroad Company, and the Central Railroad & Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond & Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; The Atlanta & West Point Railroad Company, and the Western Railway Company of Alabama; D. H. Chamberlain, receiver, H. M. Comer, receiver, Reuben Foster and F. W. Huidekoper, receivers.
} In equity, No. 526.

This cause came on to be heard before Hon. Wm. T. Newman, judge, etc., upon the petition or bill, the answers thereto, exhibits, the testimony, stipulations, and argument of counsel.

Whereupon, upon consideration thereof, it is ordered, adjudged, and decreed by the court that the matters of equity alleged in the petition or bill are fully denied in the answers and are not sustained by the proof, and therefore that the said petition or bill be dismissed, and that the injunction prayed for therein be refused.

It is further ordered, adjudged, and decreed by the court that the costs of this cause shall be taxed by the clerk to be paid out of the appropriation for expenses of the courts of the United States as provided in section 16 of the act to regulate commerce.

In open court July 6, 1898.

WM. T. NEWMAN,
U. S. Judge.

Filing: Filed in clerk's office 6 day of July, 1898. O. C. Fuller, clerk.

Petition for appeal.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *vs.* THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company, et al.	In equity, No. 526.

303 Comes the Interstate Commerce Commission this the 6th day of July, 1898, by G. L. Bell, assistant United States attorney, and in open court applies for an appeal from the final decree therein to the United States circuit court of appeals for the fifth circuit, and the said petitioner, the Interstate Commerce Commission of the United States, being a department of the Government, and this appeal being entered as such, and it appearing that the matter in dispute in said cause exceeds the sum or value of five thousand dollars, exclusive of costs, it is therefore ordered that said application for appeal be, and the same is hereby, granted and made returnable not exceeding thirty days from this date and that the same be filed in this court.

This the 6th day of July, 1898.

WM. T. NEWMAN,
United States Judge.

Filing: Filed in clerk's office 6 day of July, 1898. O. C. Fuller, clerk.

* * * * * * *

306 *Citation.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *vs.* THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company, et al.	In equity, No. 526.

To the Clyde Steamship Company; the South Carolina Railway Company; the Georgia Railroad & Banking Company; the Louisville & Nashville Railroad Company, and the Central Railroad & Banking Company of Georgia, lessees of the Georgia Railroad; the Richmond & Danville Railroad Company and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; the Atlanta & West Point Railroad Company and the Western Railway Company of Alabama; D. H. Chamberlain, receiver, H. M. Comer, receiver, Reuben Foster and F. W. Huidekoper, receivers.

You are hereby cited and admonished to be and appear at the court room of the United States circuit court of appeals for the fifth circuit at New Orleans, Louisiana, on the 6th day of August, 1898, pursuant to an appeal allowed and granted by the circuit court of the United States

for the northern district of Georgia, at Atlanta, in the above-entitled case, to show cause, if any there be, why the decree of said circuit court of the United States for the northern district of Georgia, at Atlanta, rendered on the 6th day of July, 1898, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness Wm. T. Newman, United States district judge for the northern district of Georgia, this 6th day of July, in the year of our Lord one thousand eight hundred and ninety-eight (1898).

WM. T. NEWMAN,
U. S. Judge.

Service.

Service of the above citation is hereby accepted and copy waived this the 14 day of July, 1898.

ED. BAXTER,
Solr. for Defendants, as of Record.

U. S. circuit court. Filed in clerk's office Jul. 6, 1898. O. C. Fuller, clerk.

307 *Clerk's certificate.*

UNITED STATES OF AMERICA,
Northern District of Georgia:

I, Olin C. Fuller, clerk of the circuit court of the United States of America for the northern district of Georgia, in the fifth circuit, do hereby certify that the foregoing pages numbered from 1 to 586, inclusive, contain a full, true, and complete transcript of the record and proceedings had in said court in the case of the Interstate Commerce Commission against the Clyde Steamship Company; the South Carolina Railway Company; the Georgia Railroad and Banking Company; the Louisville & Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lesses of the Georgia Railroad; the Richmond and Danville Railroad Company and the Georgia Pacific Railway Company, lesses of the Central Railroad of Georgia; the Atlanta & West Point Railroad Company, and the Western Railway of Alabama, D. H. Chamberlain, receiver; H. M. Comer, receiver; and Reuben Foster and F. W. Huidekoper, receivers; as the same remain of record and on file in my office.

In testimony whereof I have caused the seal of said court to be affixed, at the city of Atlanta, in the northern district of Georgia, in the fifth circuit, this 28th day of July, in the year of our Lord one thousand eight hundred and ninety-eight, and of the Independence of the United States the one hundred and twenty-second.

[SEAL.] OLIN C. FULLER, *Clerk.*

308 United States circuit court of appeals, fifth circuit.

November term, 1898.

[Extract from minutes.]

MONDAY, *December 19th, 1898.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 752.

This cause was regularly called this day, and was argued by Mr. L. A. Shaver for appellant, and by Mr. Ed. Baxter for the appellees, when the further hearing was postponed until to-morrow.

November term, 1898.

[Extract from minutes.]

TUESDAY, *December 20, 1898.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 752.

This cause came on again to be heard this day, and was submitted to the court after further argument by Mr. L. A. Shaver for appellant, and by Mr. Ed. Baxter for the appellees.

309 November term, 1898.

[Extract from minutes.]

MARCH 21, 1899.

Decree.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE South Carolina Railway Company, et als. } No. 752.

This cause come on to be heard on the transcript of the record from the circuit court of the United States for the northern district of Georgia, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed that the decree of the said circuit court in this cause be, and the same is hereby, affirmed at the costs of the appellant.

310 United States circuit court of appeals, fifth circuit.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 752.

Petition for appeals.—Filed April 12, 1899.

The Interstate Commerce Commission, by J. Ward Gurley, United States attorney, and L. A. Shaver, esq., solicitor of said Commission, under the direction of the Attorney-General of the United States, represents that in the final decree of said circuit court of appeals, rendered on the 21st day of March, 1899, there is manifest error to its injury; and, therefore, being a department of the Government of the United States, it prays for an order granting an appeal from said decree to the Supreme Court of the United States.

J. WARD GURLEY,
United States Attorney for the Eastern District of Louisiana.
L. A. SHAVER,
Solicitor for the Interstate Commerce Commission.

315 United States circuit court of appeals, fifth circuit.

November term, 1898.

[Extract from minutes.]

WEDNESDAY, *April 12, 1899.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als. } No. 752.

Order allowing appeal.

In this cause, the Interstate Commerce Commission, by J. Ward Curley, United States attorney, and L. A. Shaver, Esq., solicitor of said Commission, under the direction of the Attorney-General of the United States, having made its application in writing for an appeal from the final decree therein, rendered on the 21st day of March, 1899, to the Supreme Court of the United States, and the said Interstate Commerce Commission, being a department of the Government, and it appearing that the matter in dispute in said cause exceeds the sum of $5,000.00, exclusive of costs, it is therefore ordered that said appeal be, and the same is hereby granted, and made returnable on the 12th day of May, 1899.

DON A. PARDEE,
Circuit Judge.

APRIL 12th, 1899.

332 United States circuit court of appeals for the fifth circuit.

I, J. M. McKee, clerk of the United States circuit court of appeals for the fifth circuit, do hereby certify that the foregoing 332 pages numbered from a to 331, inclusive, contain a true copy of the record upon which the cause was tried in the United States circuit court of appeals for the fifth circuit, and of all proceedings had, including the opinion of the court in the case of The Interstate Commerce Commission, appellant, vs. The Clyde Steamship Company et als., appellees, No. 752, as the same remains upon the files and records of said United States circuit court of appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals, at the city of New Orleans, this 8th day of May, A. D. 1899.

[SEAL.] J. M. McKEE,
Clerk of the United States Circuit Court of Appeals for the Fifth Circuit.

333 *Citation on appeal.*

The United States of America, fifth judicial circuit.

The President of the United States to the Clyde Steamship Company, the Atlanta & West Point Railroad Company, and the Western Railway of Alabama et al., or to Ed. Baxter, their solicitor of record, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at Washington, D. C., within 30 days from the date hereof, pursuant to the appeal sued out and filed in the clerk's office in the United States circuit court of appeals for the fifth circuit, in the cause wherein the Interstate Commerce Commission was appellant and you were appellees, to show cause, if any there be, why the decree rendered against the said Interstate Commerce Commission, as in said petition for appeal mentioned, should not be corrected, and why speedy justice should not be done in that behalf.

Witness the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, this the 12th day of April, in the year of our Lord one thousand eight hundred and ninety-nine.

DON A. PARDEE,
Circuit Judge.

I hereby accept service of the above citation.

ED. BAXTER,
Solicitor for Appellees as shown of Record.

(Indorsed:) No. 752, United States circuit court of appeals, fifth circuit. The Interstate Commerce Commission, appellant, vs. The Clyde Steamship Co., the Atlantic & West Point Railroad Co., and the Western Railway of Alabama, et al., appellees. Citation on appeal. Filed April 27, 1899. J. M. McKee, clerk; J. Ward Gurley, U. S. atty.; L. A. Shaver, solicitor.

334 In the Supreme Court of the United States, October term, 1899.

THE INTERSTATE COMMERCE COMMISSION, appellant, *vs.* THE CLYDE STEAMSHIP COMPANY, THE Georgia Railroad Company, et al.	No. 307. (No. 751 in circuit court of appeals.)
THE INTERSTATE COMMERCE COMMISSION, appellant, *vs.* THE WESTERN & ATLANTIC RAILROAD Company et al.	No. 308. (No. 750 in circuit court of appeals.)
THE INTERSTATE COMMERCE COMMISSION, appellant, *vs.* THE CLYDE STEAMSHIP COMPANY, THE Atlanta & West Point Railroad Company, the Western Railway Company of Alabama, et al.	No. 309. (No. 752 in circuit court of appeals.)

Stipulation as to parts of record to be printed.

It is stipulated between the attorneys for the appellant and the appellees in the above-stated cases that the following portions of the records in said cases be printed in the record in this court in case 308 only, and be omitted in printing the records in this court in cases 307 and 309, to wit:

335 1. The report and opinion of the Commission, which is the same in all three cases.

2. The opinion of the circuit court, which is the same in said three cases.

3. The opinion of the circuit court of appeals, which is the same in said three cases.

4. The stipulation entitled "Stipulation of counsel relative to certain testimony to be used in cases Nos. 524, 525, and 526," and which was entered into in all three cases. Said stipulation appears on pages 94 and 95 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

5. The "Articles of association of the Southeastern Freight Association," which appear on pages from 262 to 266, inclusive, in the record in the circuit court of appeals in said case No. 308.

6. "An act to provide for the regulation of railroad freight and passenger tariffs," &c., in the State of Georgia, which appears in the record in the circuit court of appeals in said case No. 308 on pages from 314 to 321, inclusive.

7. The matter commencing with the words "Exhibit No. 6, filed by J. M. Brown," which embraces "Freight tariff classes—percentages," and also "Classified list of railroads in Georgia," which appears on pages from 305 to 308, inclusive, in the record in the circuit court of appeals in said case No. 308.

336 8. The assignment of errors, which is the same in all cases.

9. The matter entitled "The Southern States Freight Association. Classified statement of tonnage from points on and beyond the Ohio and Mississippi rivers and from and via Lexington, Ky., and from Nashville, Tenn., Johnsonville, Tenn., and Florence, Sheffield, and Riverton, Ala., to Atlanta, Ga., during the year ended March 31st, 1893," which appears on page 267 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

10. The matter entitled "The Southern States Freight Association. Statement of tonnage from the Eastern seaboard and interior points in New England, New York, Pennsylvania, Maryland, Delaware, and West Virginia to Atlanta, Ga., during the year ended March 31st, 1893," which appears on page 268 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

11. The matter entitled "Statement of average receipts per ton per mile, etc., of various railroads," which appears on pages 323 and 324 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

L. A. SHAVER,
Counsel for Commission.

ED. BAXTER,
Counsel for Carriers.

337 (Endorsed) File No. 17,421, 17,422, 17,423. Supreme Court U. S., October term, 1899. Term Nos. 307, 308, and 309. The Interstate Commerce Commission, appellant, vs. The Clyde Steamship Co. et al., the Western & Atlantic R. R. Co. et al., and the Clyde Steamship Co. et al. Stipulations as to parts of records to be printed. Filed, March 8, 1900.

(Indorsement on cover:) File No. 17,423. U. S. C. C. of appeals, 5th circuit. Term No., 309. The Interstate Commerce Commission, appellant, vs. The Clyde Steamship Company, the Atlantic & West Point Railroad Company, and the Western Railway of Alabama et al. Filed May 23, 1899. Office Supreme Court of U. S. Received May 11, 1899.

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